

## TABLE OF CONTENTS

RULE 1: Scope and Applicability of Rules	3
RULE 2: Joint Session and General Division Sessions	4
RULE 3: Presiding Judge, Assistant and Second Presiding Judges	6
RULE 4: General Division Administrative Judge	7
RULE 5: Terms of Court	8
RULE 6: Designation of Official Daily Law Journal	9
RULE 7: Individual Assignment System	10
RULE 8: Juries	14
RULE 9: Deposit of Security for Costs –	26
RULE 10: Trial Attorneys –	28
RULE 11: Pleadings and Other Papers –	30
RULE 12: Extensions of Time to Move or Plead by Stipulation	36
RULE 13: Default –	37
RULE 14: Motions, Memoranda and Procedure Thereon	39
RULE 14.1: Bond	41
RULE 14.2: Setting Aside Bond Forfeiture Judgment s	42
RULE 15: Case Management	43
RULE 16: Judgment s Upon Warrant of Attorney to Confess	44
RULE 17: Journal Entries –	45
RULE 18: Disposition of Cases Called for Trial	46
RULE 19: Judgment Debtor Exams	47
RULE 20: Fees –	48
RULE 21: [RESERVED]	52
RULE 22: Notary Public: Examination and Appointments	53
RULE 23: Magistrates	54
RULE 24: [RESERVED]	58
RULE 25: Court Administrator	59
RULE 26: Effective Date; Repeal; Amendments	60

RULE 27: [RESERVED]	61
RULE 28: [RESERVED]	62
RULE 29: [RESERVED]	63
RULE 30: Media Coverage of Court Proceedings	64
RULE 31: Mediation	66
RULE 32: [RESERVED]	69
RULE 33: Hamilton County Courthouse	70
RULE 34: Electronic Transmission Filings –	76
RULE 35: Hamilton County Drug Treatment and Recovery Court	82
RULE 36: Issuance of Warrant for Probation Violation (per Criminal Rule 4)	86
RULE 37: Civil Protection Order	87
RULE 38: Court Record Retention	88
RULE 39: Return of Inmates for Forfeiture Proceedings	89
RULE 40: [RESERVED]	90
RULE 41: Appointment of Special Prosecutor	91
RULE 42: DNA Testing	92
RULE 43: [RESERVED]	93
RULE 44: Search Warrants	94
RULE 45: Foreclosure –	95
RULE 46: Certificate of Qualification for Employment –	100
RULE 47: Specialized Dockets –	102
RULE 48: Commercial Dockets -	108

## RULE 1. Scope and Applicability of Rules

- (A) The rules hereinafter set forth shall apply to the general division of the Court of Common Pleas of Hamilton County, Ohio. The purpose of these rules is to define local practices and procedure of this Court, consistent with the Rules of Superintendence, the Rule of Civil and Criminal Procedure, and such other rules as may be adopted or promulgated by the Supreme Court of

Ohio pursuant to Section 5 of Article IV of the Ohio Constitution. Additional local rules of Court may be adopted by the Domestic Relations, Probate and Juvenile Divisions, and such other divisions of the Court as may be created from time to time, governing practice and procedure in those divisions. The Court of Common Pleas of Hamilton County consists of four divisions: The General Division, the Domestic Relations Division, the Probate Division and the Juvenile Division.

- (B) The Judges of the Domestic Relations, Juvenile and Probate Divisions, shall be responsible for the business of those divisions, provided however, that the Presiding Judge of this Court, elected in accordance with Sup. R. 3 may temporarily assign judges from one division of the Court to serve another division as the business of the Court may require, in conformity to Sup. R. 3.01.

**Effective: (March 1, 2023)**

## RULE 2: Joint Session and General Division Sessions

- (A) The Joint Session of the Hamilton County Court of Common Pleas this Court shall consist of all of the judges of all of the divisions thereof. "Divisions" has the same meaning as that in Sup. R. Rule 2(D) of the Rules of Superintendence, and means the General, Domestic Relations, Juvenile or Probate Division of the Court. Regular meetings of the Joint Session shall be held on the Friday preceding the last Friday of each term of Court, as set forth in Rule 5 hereof.
- (B) Consistent with the Sup R 3.01, the Presiding Judge shall fix the date and call and conduct an annual Joint Session meeting to be held no later than mid-December, and other meetings of the Joint Session as necessary for the purpose of discussing and resolving administrative problems common to all divisions of the Court.

- (C) Written notice of meetings of the Joint Session shall be given to each judge of each division of the Court. A majority of the judges of the General Division shall constitute a quorum for meeting of the Joint Sessions, and an affirmative vote of a majority of judges present shall be required to carry any order or resolution presented for action at a meeting of the Joint Session.
- (D) Minutes of the meeting of the Joint Session may be recorded by a designee on order of the Presiding Judge. Copies of the meeting minutes of the Joint Session approved by the Presiding Judge, if any, shall be distributed to all of the judges of all of the divisions after the meeting of Joint Session.
- (E) Nothing contained herein shall be construed to prohibit separate meetings of any multi judge division of this Court at the call of the Administrative Judge thereof, as defined in Rule 4 hereof.

### **General Division Sessions**

The administrative judge of the general division shall schedule meetings of the judges of the general division as necessary with prior written notice to each general division judge.

A majority of the judges of the general division shall constitute a quorum for meeting of the general division sessions, and an affirmative vote of a majority of judges' present shall be required to carry any order or resolution presented for action at a meeting of the general division session.

The meetings may be recorded by a designee on order of the general division administrative judge. Copies of the meeting minutes of the general division sessions approved by the administrative judge, if any, shall be distributed to all of the judges of all of the general divisions after each session.

**Effective: (March 1, 2023)**

### RULE 3: Presiding Judge, Assistant and Second Assistant Presiding Judges, and Secretary.

- (A) At a meeting of the annual Joint Session, all judges of all the divisions of this Court shall elect a Presiding Judge, an Assistant Presiding Judge, and a second Assistant Presiding Judge, Sup. R.
- (B) The Presiding Judge shall discharge such duties imposed by the Rules of Superintendence and such other duties as may be imposed by statute, these Rules and the orders of the Joint Session. The Assistant Presiding Judge shall discharge the duties of the Presiding Judge during the absence or disability of the latter and in case of a vacancy in the presiding judgeship, unless such vacancy is caused by the inability of the judges to agree upon one of their number as the Presiding Judge. The Second Assistant Presiding Judge shall discharge the duties of the Presiding Judge in the event the Presiding Judge and the Assistant Presiding Judge are absent or disabled, and shall discharge the specific duties of the Assistant Presiding Judge, in the event that the latter is absent or disabled.

**Effective: (March 1, 2023)**

## RULE 4. General Division Administrative Judge

In the event the judge elected Presiding Judge pursuant to Rule 3(A) is a judge of the General Division, that judge may also be the Administrative Judge of the General Division required by Sup. R. 3 promulgated by the Supreme Court of Ohio.

The Administrative Judge of the General Division shall be elected by majority vote of the judges of the General Division, consistent with the Rules of Superintendence.

Pursuant to Sup. R. 4.03, the Administrative Judge shall be provided the option to receive a docket reduction of 15%

**Effective: (July 1, 2023)**

## RULE 5: Term of Court

(A) Pursuant to Revised Code Section 2301.05 the term of the Common Pleas Court is one calendar year.

**Effective: (March 1, 2023)**

## RULE 6. Designation of Official Daily Law Journal.

(A) The Cincinnati Court Index is hereby designated as the official daily law journal of this Court, as required by Revised Code Section 2701.09, in which the individual calendars of the judges of this Court shall be published, which calendars shall contain the numbers and titles of cases, and the individual names of the attorneys appearing therein consistent with the Rules of Superintendence.

**Effective: (March 1, 2023)**



## RULE 7. Individual Assignment System.

- (A) In accordance with the Rules of Superintendence, upon the filing or transfer of a civil case, upon arraignment in a criminal case, or upon special request of the Hamilton County Prosecutor as provided in Paragraph (I) herein, such case shall be immediately assigned by the Administrative Judge or by court personnel at the Administrative Judge's direction, by lot to a judge of the division. Except as otherwise provided herein, the assigned judge is responsible for the determination of all matters pertaining to the case. If the assigned judge is unavailable, the Administrative Judge may act in the assigned judge's absence. Cases shall be distributed as equitably as possible to each of the judges in the division.
- (B) All criminal arraignments, extraditions, and bond settings, except in death penalty cases, shall be heard by a General Division magistrate.
- (C) **Modifications to Individual Assignment System.** Pursuant to Sup. R. 36.011(C), the Individual Assignment System is hereby modified as follows:
- (1) To provide for the redistribution of cases involving the same criminal defendant;
  - (2) A new criminal case involving a person who is currently on probation shall be directly assigned to the judge to whom the probation case is assigned; and,
  - (3) Equity and Presiding Criminal Judge:
    - (a) In the General Division, each judge is assigned a dice (pill) with a number from 1 through 16 corresponding to their court room number. The Drug Court judge (14) shall not be included in the assignment of the Equity and Presiding Criminal Judge. To commence the Equity and Presiding Criminal Judge random assignment process, the 15 remaining dies (pills) are placed in a bottle. The bottle shall be shaken and one number shall be rolled out. The judge assigned to that number will be assigned the first one week of the new rotation. The process will be repeated until all 15 die (pills) have been rolled and the bottle is empty. Once all remaining dies (pills) have been removed, all dies (pills) will be returned to the bottle to complete the next roll of 15 one week period. There shall be four rolls for the assignment process setting forth 60 one week periods of assignment for Equity and Presiding Criminal Judges. This process will be performed by the Court Administrator in the presence of the Administrative Judge, the Assistant Administrative Judge, or the Second Assistant Administrative Judge, and any other interested person.
    - (b) Where there is an application for a temporary restraining order, appointment of a receiver, or a writ of mandamus, the party making the application shall give written notice to the opposite party of the intention to make such application, unless the Equity Judge, for good cause shown, directs otherwise. If the Equity Judge directs that the written notice be omitted, an entry shall be made stating the reason for the omission of such notice. No request for a temporary restraining order will be heard unless it is presented by a motion separately filed. A case shall be permanently assigned to the judge serving in equity at the time a motion for temporary restraining order is filed; except that a case already permanently assigned at the time the motion is filed shall not be reassigned. For purposes of statistical reports

required under Sup. R. 37, all miscellaneous cases not otherwise assigned shall be reported each month by the Equity Judge.

- (c) When a criminal case has been assigned to a judge of this division and the state seeks to obtain relief from discovery or to perpetuate testimony or for a witness protective order under Crim. R. 16(B), said motion will not be heard by the assigned judge but rather will be heard and determined by the judge assigned as Presiding Criminal Judge during the period wherein the motion is filed. The assigned judge will continue to be primarily responsible for the determination of every other issue and proceeding in the case until its termination pursuant to section (A) above.

**(D) Assignment of Cases Following Recusal.**

- (1) *General.* When necessary or proper a judge may recuse or disqualify himself or herself from a particular case by written entry and shall notify the Common Pleas Assignment Commissioner of such recusal. Following recusal or disqualification, the Administrative Judge shall randomly reassign the case.
- (2) *Request for Visiting Judge.* In any case in which the administrative judge reasonably believes based on all circumstances that no judge of the court should hear the case, the administrative judge may request a visiting judge be assigned.

- (E) New Trials.** When a new trial is ordered, for any reason, either by the judge who originally tried the case or by a reviewing court, the case, for purposes of such new trial, shall return to the originally assigned judge who shall decide, at their own discretion, whether to hear the retrial or have the case reassigned by lot in accordance with the system authorized by Paragraph A hereof. When a case has once been tried, and for any reason a retrial is required, said case shall be given preference in the setting of cases for trial.

- (F) Consolidation and Separate Trials.** Unless otherwise agreed by the judges involved, Civil Rule 42 motions to consolidate shall be heard by the judge to whom the lowest numbered case is assigned and, if granted, the consolidated cases shall be assigned to that judge. The case(s) assigned to the judge granting the motion to consolidate shall be known as the SOURCE case(s). The case into which the SOURCE case(s) is/are to be consolidated shall be known as the TARGET case. After consolidation is ordered, the random assignment by lot of civil cases shall be adjusted to preserve the equitable distribution of civil cases among the judges. All filings received by the Clerk of Court's Office post consolidation on the SOURCE case(s) shall be docketed exclusively under the TARGET case.

- (G) Capital Cases.** A separate assignment by lot shall be made for capital cases (death penalty offenses) to a judge of the General Division who is qualified to hear the case, pursuant to Sup. R. 36.013. Such assignments shall be made by lot from a pool consisting of each General Division judge eligible to hear the case. Upon receipt of such criminal case, the name or courtroom number of the assigned judge is removed from the pool. Upon the assignment of such criminal case to the second-to-last judge in the pool, the names or courtroom numbers of each judge of the General Division eligible to hear capital cases are added back into the pool. In capital cases, the Administrative Judge of the General Division shall appoint one attorney for defendant on the day that the defendant is either arraigned in the Municipal Court or indicted, whichever comes first. The judge assigned a capital case will appoint one additional attorney for defendant.

- (H)** In accordance with Superintendence Rule 36.017, in any instance where a previously filed and dismissed case is refiled within one year, that case shall be reassigned to the judge originally

assigned by lot to hear it unless, for good cause shown, that judge is precluded from hearing the case.

- (I)** Upon request of the Hamilton County Prosecutor, a judge may be randomly assigned to preside over a pre-indictment matter. The Court Administrator shall designate a form by which the prosecutor shall make such a request. When multiple defendants are charged as a result of single event, with the same or similar charges, each defendant will be assigned a separate case number prior to assignment. The prosecutor must indicate on the assignment request form the case numbers of such companion cases to be assigned together to one judge. Co-defendants will be consolidated into one indictment, using the lowest case number assigned. Co-defendants will be listed in the indictment in the same ascending order as the case numbers were assigned originally. This pre-indictment assignment shall remain sealed until such time as an indictment is filed or an arrest is made. The randomly assigned judge will preside over all pre-arraignment matters and arraignment after which the judge assignment will be unsealed. The judge assigned to a matter pre-indictment shall preside over the new case post-arraignment, unless that judge is precluded from hearing the case or other good cause exists to reassign the case by lot. The Court Administrator may develop additional guidelines consistent with this rule and Sup. R. 36.015.

**Effective: (January 17, 2024)**

## RULE 8. Juries

### **(A) Opportunity for Service**

Jury service is an obligation of all qualified citizens of Hamilton County. The opportunity for service shall not be denied to any person on the basis of race, national origin, gender, age, religious beliefs, income, occupation, disability (except where there is a language barrier), or any other discriminating factor. All reasonable efforts shall be made to accommodate prospective juror who have special needs.

### **(B) Jury Source List**

- (1) The jury source list shall be obtained from the Board of Elections' list of registered voters. The list is considered sufficiently representative and inclusive of the adult population of Hamilton County.
- (2) The Jury Commissioners appointed by the Court, pursuant to Revised Code Section 2313. on or before the fifteenth day of December of each year, shall select such numbers of electors, residents of the county, as the Court may order, whose names shall be placed in the jury electronic processing system for the succeeding court year.
- (3) The Court shall annually review this process to determine possible need for improved representativeness and inclusiveness.

### **(C) Random Selection Procedures**

- (1) The Jury Commissioners shall estimate the approximate number of jurors needed for the following jury year. The estimated number of jurors needed shall be divided into the number of currently registered voters to determine a key number. A random start number shall be chosen.
- (2) In those circumstance where the Court determines that the Selection and Qualification Process of Jurors shall be handled by Automatic Data Processing Revised Code Section 2313, shall govern.

- (3) The names shall be selected, in accordance with the key number furnished by the Court, from the certified list containing the names of all electors of the County.
- (4) The eligible jurors shall be selected for the jury pool using procedures insuring random selection. The identical procedure shall apply to the selection of Grand Jurors.
- (5) When the required number of persons, qualified to serve as jurors has been chosen and the names approved by the Commission, the Deputy Jury Commissioner shall prepare in triplicate an alphabetical list of such names, a copy of which shall be given to the Court Administrator and to the Clerk of Courts (ORC 2313) with one to be retained by the Commission. Each such list shall bear the endorsement of both Commissioners. The names of such electors shall be printed on separate pieces of paper of uniform size and deposited in the jury electronic processing system as provided by law.
- (6) As the names are drawn from the electronic processing system and verified by the Clerk of Courts as being on the list prepared by the Jury Commission, they shall be written down in the order in which they are drawn from the electronic processing system and numbered consecutively beginning with the number one, and the Clerk of Courts shall forthwith certify the list of names of the persons so drawn to the Jury Commission, preserving the same order and arrangement as herein provided.
- (7) The Sheriff shall serve summons by mail, or shall make personal service of summons, if ordered by the Court, in the manner provided by law, on persons whose names are drawn from time to time from the electronic processing system.
- (8) When a panel or additional juror are required in any trial room, the Deputy Jury Commissioner shall randomly draw the required number of cards from the service wheel and cause the names and numbers thereon to be entered on a form showing the number of the trial room and leaving space for data necessary for proper record. This list, with the perspective jurors, shall then be forwarded to the trial judge, who shall make proper record opposite each name to show which juror were retained for service and which were challenged.
- (9) Immediately after the jury is sworn, said list, bearing the names of those rejected, shall be immediately returned to the Deputy Jury Commissioner; but the names of the jurors sworn for service shall be retained by the trial judge until a verdict is returned and thereupon forthwith in like manner returned to the Deputy Jury Commissioner. All perspective jurors shall be placed in a daily service pool by the Deputy Jury Commissioner immediately upon receiving the same.
- (10) Said Deputy Jury Commissioner shall have authority to withdraw from the daily service pool of jurors who have been excused or have completed their term of service.

**(D) Eligibility for Jury Service**

- (1) All persons should be eligible for jury service except those who:
  - (a) Are less than eighteen year of age;
  - (b) Are not citizens of the United States;
  - (c) Are not residents of Hamilton County
  - (d) Are not able to communicate in the English language; or
  - (e) Have been convicted of a felony and have not had their civil rights restored.
- (2) It shall be the duty of the Deputy Jury Commissioner appointed in accordance with Revised Section Code 2313, to notify each prospective juror, by mail to call at or respond by questionnaire to the office of the Commission for examination and assignment to jury service or exemption therefrom. The Deputy Jury Commissioner shall keep a separate record of all such prospective jurors who fail to respond to such notification and promptly contact by most practical means and any failure to respond to such notice shall be forthwith reported to the Presiding Judge for appropriate action. The Deputy Jury Commissioner shall keep a complete and accurate record for all persons examined for jury service and accepted, exempted or excused.
- (3) Following summons and pursuant to Revised Code Sections 2313, the First Assistant Presiding Judge shall have the regular duty of passing upon the requests of juror to be excused or to have their term of service reduced, or may designate a representative or the Chief Deputy Jury Commissioner or his/her assistant may serve as the representative of the Court for this purpose.

#### **(E) Term and Availability for Jury Service**

- (1) The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice. Generally, unless otherwise determined pursuant to Section D (3) above, the term of service shall be two (2) weeks.
- (2) Jurors are placed in a rotating pool system. Unless participating on a jury in progress, jurors will call a recording or check the website in the Jury Commission Office to determine if their services are required the next day.
- (3) All jurors shall report to the Jury Commissioner's office each morning as instructed on the telephone call in system or website, unless otherwise ordered by the trial judge, in order that their attendance may be credited. Jurors shall remain in the Jury Commissioners office during the court hours and shall not leave the same except by permission of the Deputy Jury Commissioner.
- (4) When jurors are discharged or excused from the panel of a case they shall be directed to report to the Jury Commissioner's office.

- (5) Jurors not serving on trials shall not be excused or depart from the building without notice to the Deputy Juror Commissioner's office.
- (6) All jurors failing to answer the call of the Deputy Jury Commissioner in compliance with the above regulations shall be reported to the Presiding Judge who shall take proper action.

**(F) Exemption, Excuse and Deferral**

- (1) There shall be no automatic excuses or exemptions with the exception of statutory exemptions from jury service pursuant to ORC 2313.34 or as provided below. Prospective jurors exempt by occupation are attorneys. Dentists. Physicians and elected public officials. Persons over the age of 70 are also exempt. Persons who have served as a juror in a Court of record within the jurisdiction in the last two years are also exempt from service.
- (2) Persons who no longer reside in Hamilton County and persons convicted of a felony whose rights have not been restored are disqualified from serving.
- (3) Prospective jurors may be excused due to personal or family illness; child care hardship or financial hardship.
- (4) Excuses or postponements from jury service may be permitted for short periods of time and may only be granted by a judge or specifically authorized court official.
- (5) Requests for excuses, postponements or reduction of term of service shall be in writing or in person and shall be recorded in the records of the Jury Commissioner's office.

**(G) Voir Dire**

- (1) Voir dire examination should be limited to matter relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.
- (2) To reduce the time required for voir dire, the juror questionnaire which contains basic background information regarding panel members shall be available to counsel for each party no later than on the day on which jury selection is to begin.
- (3) The trial judge should conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.

- (4) The judge should ensure that the privacy of perspective jurors is reasonably protected by utilizing numeric identification when appropriate, and the questioning is consistent with the purpose of the voir dire process.
- (5) In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

#### **(H) Removal from the Jury Panel for Cause**

If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual should be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

#### **(I) Peremptory Challenges**

Rules determining procedure for exercising peremptory challenges shall be in accord with the Ohio Civil and Criminal Rules adopted by the Supreme Court of Ohio and applicable statutory authority.

#### **(J) Administration of the Jury System**

- (1) The responsibility for administering the jury system is vested in the Chief Deputy Jury Commissioner under the supervision of the Administrative Judge of the Common Pleas Court and Court Administrator.
- (2) The address, phone numbers and any personal information about a specific juror or any documents or records containing this information shall not be released for public inspection except upon order of the trial judge or the Presiding or Administrative Judge. The Court may order notice to the jurors prior to release of such information or document if such release may present a security risk to the individual jurors.

#### **(K) Notification and Summoning Procedures**

- (1) The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person shall be:
  - (a) Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; an
  - (b) Delivered by ordinary mail.
- (2) A summons shall clearly explain how and when the recipient must respond and the consequences of a failure to respond.



- (3) The questionnaire shall be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:
- (a) Determining whether a person meets the criteria for eligibility;
  - (b) Providing basic background information ordinarily sought during voir dire examinations;
  - (c) Efficiently managing the jury system; and
  - (d) To comply with Section L of this rule.
- (4) The procedure where use of Automatic Data Processing (ADP) equipment is used in the Selection and Qualification of Jurors pursuant to Revised Code Chapter 2313 shall be as follows:
- (a) Pursuant to Revised Code Section 2313.07 the Court approves use of Automatic Data Processing Information Storage and Information Retrieval Devices containing the Annual Jury list permitted by Revised Code Section 2313.08, and for related purposes described in Revised Code Sections 2313.09 and 2313.21.
  - (b) By use of Magnetic Tapes, Magnetic Discs and related devices, the Court shall randomly assemble the Annual Jurors List by identifying the names of prospective jurors from the master list of all registered voters in the County pursuant to Revised Code Section 2313.06.

**(L) Monitoring the Jury System**

- (1) The Chief Deputy Jury Commissioner shall collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:
- (a) The representativeness and inclusiveness of the jury source list;
  - (b) The effectiveness of qualification and summoning procedures;
  - (c) The responsiveness of individual citizens to jury duty summonses;
  - (d) The efficient use of jurors; and
  - (e) The cost-effectiveness of the jury management system.
- (2) The Chief Deputy Jury Commissioner shall annually report findings to the Administrative Judge and the Court Administrator.

**(M) Juror Uses**

- (1) The Court shall employ the services of prospective jurors to achieve optimum use with a minimum of inconvenience to jurors.
- (2) The Chief Deputy Jury Commissioner shall determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.
- (3) The Chief Deputy Jury Commissioner shall attempt to ensure that each prospective juror who has reported to the Court is assigned for voir dire.
- (4) The Chief Deputy Jury Commissioner shall routinely review the Court's calendar and coordinate jury management decisions to make the most effective use of jurors.

#### **(N) Jury Facilities**

- (1) The Court has provided an adequate and suitable environment for jurors. The Chief Deputy Jury Commissioner shall ensure that:
  - (a) The entrance and registration areas are clearly identified and appropriately maintained to accommodate the daily flow of prospective jurors.
  - (b) Jurors shall be accommodated in pleasant waiting facilities with suitable amenities.
  - (c) Jury deliberation rooms should include space, furnishings and facilities conducive to reaching a fair verdict. The safety and security of deliberation rooms should be ensured by the courtroom bailiff who shall request assistance from security officers where necessary.
  - (d) To the extent feasible, juror facilities have been arranged to minimize contact between jurors, parties, counsel and the public.
  - (e) The Chief Deputy Jury Commissioner shall routinely tour and review such facilities and report any deficiency to the Administrative Judge of the Court of Common Pleas and the Court Administrator.

#### **(O) Juror Compensation**

- (1) Persons called for jury service shall receive such compensation for each day served as established by the Hamilton County Commissioners pursuant to O.R.C. Section 2313.

- (2) Fees shall be paid weekly.
- (3) Employers are prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

**(P) Juror Orientation and Instruction**

- (1) The Jury Commissioner office shall conduct a juror orientation program:
  - (a) Designed to increase prospective jurors understanding of the judicial system and prepare them to serve competently as jurors; and
  - (b) Presented in a uniform and efficient manner using a combination of written, oral and audiovisual materials.
- (2) The Court shall provide some form of orientation or instructions to persons called for jury service:
  - (a) Upon initial conduct prior to service;
  - (b) Upon first appearance at the court; and
  - (c) Upon reporting to a courtroom for voir dire.
- (3) The trial judge should:
  - (a) Give preliminary instructions to all prospective jurors;
  - (b) Give instructions directly following empanelment to the jury to explain the jury's role, the trial procedures including note taking and questioning by the jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
  - (c) Prior to commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. These instructions should be made available to the jurors during deliberations.
  - (d) Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and
  - (e) Use of written instructions when feasible.
  - (f) Before dismissing a jury at the conclusion of a case:
    - (1) Release the jurors from their duty of confidentiality;

- (2) Explain their rights regarding inquiries from counsel or the press;
  - (3) Either advise them that they are discharged from service or specify where they must report;
  - (4) Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation; and
  - (5) Where appropriate advise the jurors of stress management services available through the Jury Commissioner's office.
- (4) All communications between the judge and members of the jury panel from the time of reporting to the courtroom until dismissed shall be in writing or on the record in open court. Counsel for each party shall be informed of such communications and given the opportunity to be heard.

**(Q) Jury Size and Unanimity of Verdict**

Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

**(R) Jury Deliberations**

- (1) Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making.
- (2) The judge should instruct the jury concerning appropriate procedures to be followed during deliberations.
- (3) A jury should not be required to deliberate after 4:00 p.m. unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.
- (4) All court personnel who escort and assist jurors during deliberation shall be trained in the applicable procedures and policies.

**(S) Sequestration of Jury**

- (1) A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.
- (2) During deliberations in the guilt phase and penalty phase, the jury shall be sequestered in a capital case.
- (3) The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative. The judge's courtroom staff along with the Court

Administration staff shall have the responsibility to provide for the safety and comfort of juror and the following conditions of sequestration.

**(a) Lodging:**

- (1) Remove phone from each juror's room;
- (2) Disable or remove television/radio from each juror's room;
- (3) Jurors should have separate rooms with individual private toilet and bath. Rooms should be clean and of average quality or better.
- (4) Where feasible, provide additional amenities (i.e., complimentary hospitality suite...)

**(b) Transportation**

Contact appropriate company to determine time of pick up or drop off (list available through Court Administrator's office).

**(c) Meals**

- (1) Use local restaurants for carry-out lunch needs;
- (2) Where possible, private group dining should be arranged;
- (3) Verify prearranged dinner/breakfast menus to maintain cost control including standard gratuity;
- (4) A determination on the availability of or provision of alcoholic beverages should be made by the trial judge prior to the sequestration.

**(d) Security**

- (1) Coordinate with Sheriff's office to provide necessary security personnel;
- (2) Juror's rooms should be located on one floor or in an area that allows the maximum site coverage by the assigned Sheriff staff.

**(e) Expenses**

- (1) The reasonable expenses for transportation, meals and lodging of jurors shall be paid from the County Treasury through the Court Administrator's office;
- (2) Except in an emergency, courtroom staff shall arrange direct billing to the Court of Common Pleas for all expenses.

**(T) Selection of Grand Jurors**

- (1) The jury commissioner will send to the presiding equity judge every other Monday sufficient jurors to constitute two grand juries each consisting of 9 regular grand jurors and 2 alternates. In the event a request for a special grand jury is granted, the jury commissioner will send sufficient jurors to constitute a single panel of 9 and up to 5 alternate jurors depending upon the anticipated length of service for the special grand jury panel.
- (2) In addition to administering the oath to the grand jurors and instructing them on their duties and the law governing their service, the Presiding Criminal Judge will question the grand jurors as to their eligibility for service. The criteria guiding the Presiding Criminal Judge are as outlined in Local Rule 8 (a), Local Rule 8, O.R.C. 2313.42 and O.R.C. 2939.03. The presiding judge will determine whether or not to excuse any prospective juror from the panel based on the foregoing guidelines. The remaining jurors will constitute the regular or special grand jury panels.
- (3) In the case of a special grand jury, the first 9 jurors selected by the Presiding Judge will be the voting members of the panel, with the alternate grand jurors replacing any of the 9 who cannot complete their service. Any such replacement will be in numerical order.
- (4) In the case of regular grand jury panel chosen to serve for a two-week period, the 11 members of the panel will alternate voting on each case with no input from the prosecuting attorney as to who votes on a particular case.
- (5) Pursuant to Criminal Rule 6 (C), the court may appoint a foreperson and deputy foreperson from the grand jury panel. If the Presiding Judge does not appoint a foreperson and deputy foreperson, the grand jurors will elect a foreperson and deputy foreperson.
- (6) If at any time after a grand jury panel is selected, the prosecutor believes a member of the grand jury should be challenged for cause pursuant to one of the reasons outlined in O.R.C. 2313.42, the prosecutor shall file a motion with the Presiding Criminal Judge requesting such juror or jurors be excused from further service and be replaced.
- (7) All court personnel who escort and assist jurors during sequestration shall be trained in the applicable procedures and policies.

**Effective: (March 1, 2023)**

**RULE 9: Deposit of Security for Costs**

(A) Upon the filing of civil actions or proceedings there shall be a sum deposited with the Clerk of Courts as security for costs in accordance with the following schedule:

<b>1</b>	Civil Action	\$325.00	<b>Effective December 1, 2009</b>
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<b>1A</b>	Foreclosure Action (new designation)	\$550.00	<b>Effective December 1, 2009</b>
<b>2</b>	Divorce, Dissolution, Legal Separation or Annulment with Children	\$375.00	
<b>2A</b>	Divorce, Dissolution, Legal Separation or Annulment without Children	\$325.00	
<b>3</b>	Post Decree Motions (with support issues)	\$125.00	
<b>4</b>	Post Decree Motions (without support issues)	\$125.00	
<b>5</b>	Out-of-County Receiver or Plaintiff	\$30.00	
<b>6</b>	Foreign Sheriff	\$30.00	
<b>7</b>	Jury Demand	\$270.00	
<b>8</b>	Notice of Appeal	\$85.00	
<b>9</b>	Praeipce for Order of Sale	\$1,000.00	<b>Effective December 1, 2023</b>
<b>10</b>	Praeipce for Levy of Execution	\$85.00	
<b>11</b>	Writ of Attachment, Replevin, Possession or Restitution	\$200.00	<b>Effective April 1, 2010</b>

<b>12</b>	Third Party Complaints, Counter-Claims, Cross-Claims and Intervening Complaints	\$75.00	<b>Amended January 1, 2012</b>
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- (B) Whenever the sum deposited for costs reaches \$25 or less the Clerk of Courts is hereby authorized to require on or more parties, as determined by the Clerk of Courts, to deposit with the Clerk of Courts additional security in an amount not to exceed \$1,000.00, which is necessary to adequately secure costs. (Amended December 21, 1999)
- (C) The requirement of this rule is subject to the provisions of Sections 2323.30-31 of the Ohio Revised Code.
- (D) When filing a praecipe for order for sale with the Clerk or Courts, a security deposit of \$1,000.00 will be required. This will ensure payment to all parties incurring costs, regardless of the outcome of the Sheriff's sale. (Amended December 1, 2023)
- (1) If the property is sold through a Sheriff's sale, the security deposit will be returned to the depositor, to be disbursed upon journalization of a decree of confirmation. (Effective December 1, 1992)
  - (2) If the property is not sold through a Sheriff's sale, the security deposit will be used to pay any incurred costs. Any amount of the security deposit not used will be returned to the depositor.
  - (3) Any costs not covered by the security deposit will be billed to the depositor. The security deposit will be disbursed upon journalization of an entry either terminating or vacating a Sheriff's sale. (Effective December 1, 1992)
- (E) When filing an entry terminating or vacating a Sheriff's sale, the entry should first be presented to the Clerk of Court's office to be costed out before presenting it to the Court for signature and journalization. (Effective December 1, 1992)

**Effective: (December 1, 2023)**



- (A) Every pleading, motion or other document of a part represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address, attorney registration number, telephone number, facsimile number, if any, and business e-mail address shall be stated. A party who is not represented by an attorney shall sign the pleading, motion or other document and state the party's address. A party who is not represented by an attorney may further state a facsimile number or e-mail address for service by electronic means under Civ. R. 5 (B)(2)(f) and Local Rule 34. Firm names and the names of co-counsel or associate counsel may appear on the pleadings and motions.
- (B) All copies of pleadings or other court filings required by these Rules or Civil Rule 5 to be served upon other counsel in a cause, shall be served upon the trial attorney, designated in accordance with Paragraph A hereof.
- (C) All notices and communications from the judges of this Court with respect to a cause pending therein will be sent to the attorney(s) designated on classification forms, notification forms (civil), or entries (criminal) referenced in Local Rule 11B hereof. Whenever an appearance of designated attorney is required in Court, the judge to whom a cause is assigned under Local Rule 7 hereof, shall so advise the Assignment Commissioner, who shall promptly notify by electronic postcard to such trial attorney advising of the required appearance. The electronic postcard shall specify the number and title of the cause, the date and time of the required appearance, the courtroom number and name of the judge to whom the cause is assigned or before whom the appearance is required, and the reason for such appearance, whether "For Trial" or "Pretrial Conference," "For Hearing on Motion to Strike: or other such customary designation. The electronic postcard notices shall be addressed to the designated trial attorney of record in that attorney's individual name, at the most recent email address on file with the Clerk of Court's office. This most recent email address will be used on all subsequent correspondence from the Court, on any case filed, until such a time as the attorney is question changes his or her email address by filing a new notification form with the Clerk of Courts. The trial attorney shall be responsible for notifying the co-counsel or associate counsel of all matters affecting the action.
- (D) Application for leave to withdraw as attorney in a civil case shall be made by written motion filed with the Clerk of Courts, with copies served upon all other attorneys in the cause. Said motion shall be heard normally within ten days of filing by the judge to whom such a case has been assigned. Written notice of such application shall be given to the client of such attorney seeking to withdraw, by certified mail, return receipt requested, stating the time when, and before which judge, such application will be made. If such application is granted and the client does not appear at such hearing, the attorney, if permitted to withdraw, shall notify such client by certified mail, return receipt requested, to secure a new attorney within such time as may be designated by the Court. A copy of such notice, together with the order authorizing withdrawal and the certified mail, return receipt requested, shall be filed and docketed in the cause.
- (E) Any attorney who accepts private employment, or is appointed by the Court in any criminal case shall be required to sign one of the entries designated in Local Rule 11 B (3) which shall be filed with the papers in the case.

(F) Thereupon such attorney shall become attorney of record upon the journal of this Court and shall not be permitted to withdraw except upon motion and for good cause shown.

**Effective: (March 1, 2023)**

## RULE 11. Pleadings and Other Papers

(A) Pleadings and other papers shall be printed on 8 ½ x 11-inch paper. All pleadings and other papers for General Division cases assigned an “A” case number classification SHALL be filed electronically in accordance with Local Rule 34 unless the party is proceeding pro se. Depositions, administrative records. Trial transcripts and other large, multi-page filings are exempted from this requirement. Filing is effectuated when the Clerk of Courts file-stamps a document and docket it in a case. The electronic version of documents, whether filed through e-filing or received by the Clerk of Courts in paper format and subsequently scanned into electronic format, constitutes the official record in the case.

(B) **Civil:** Case Classification and Attorney Notification Forms

**Criminal:** Counsel Retained, Co-Counsel Retained and Counsel Appointed.

- (1) No complaint in a civil case shall be accepted for filing unless accompanied by a completed classification form. The trial attorney must indicate on this form the following information:
    - (a) The classification of the case being filed
      - (1) A party may only check ONE type of civil case on the classification form;
      - (2) Whether the present complaint reflects a previously filed and dismissed case and, if so, the original case number and originally assigned judge's name.
    - (b) Trial attorney name (printed) and Supreme Court number.
  - (2) Whenever an attorney makes the first appearance in a civil case, that attorney shall complete an attorney notification form.
  - (3) Whenever an attorney makes a first appearance in a criminal case, that attorney shall complete one of the following entries:
    - (a) Counsel Retained;
    - (b) Co-counsel retained;
    - (c) Counsel appointed.
  - (4) Whenever an attorney has a change in official mailing address, that attorney shall complete and file a new attorney notification form.
- (C) All pleadings and other papers shall be identified by a title which shall contain the name and party designation of the person filing it, the nature of the pleading or paper, the identification number of the attorney, and the assigned judge's name. For General Division civil cases assigned an "A" case number classification, no paper copies of the filing(s) need be provided by the party to the Clerk of Courts. Clerk of Courts personnel will provide assistance for parties proceeding pro se. Original papers shall not be withdrawn from the file. (Amended January 1, 1983)
- (D) A transcript of proceedings which has been filed with the Clerk of Courts, or exhibits in any pending case, shall not be taken from the custody of the Clerk of Courts or the official short hand reporter, without written consent of the judge to whom the case is assigned, or the Presiding Judge.

(E) Unless otherwise ordered by the trial judge, all exhibits offered and admitted into evidence in the trial of a cause shall be kept in the custody of official shorthand reporter for one year after the making of a final order in such cause. If no appeal has been taken within such time, the official shorthand reporter shall notify the trial attorney offering such exhibits to present an entry authorizing the withdrawal of them. If no such entry is presented, the official shorthand reporter, with the consent of the trial judge, may make such disposition of exhibits in the reporter's possession as is warranted. By entry, the trial judge, after hearing, may order an accurate photograph or photographs substituted for a physical exhibit. Such exhibit shall then be returned to the offering party. If a final order has been made on appeal, and no further proceedings have been had within one year from the date of such final order, the Clerk of Courts, with the consent of the trial judge, may make such disposition of exhibits as is ordered by the Court. With respect to videotape depositions the Clerk of Courts shall release the original recording and the edited recording to the owner of the videotape upon Order of the Court pursuant to Sup. R. 12 €. Should the owner fail to claim said videotape deposition within thirty days of notice of a Court Order of Release, the Clerk of Courts may dispose of such tape in the manner deemed proper. Notice of the Order of Release shall be by ordinary mail to the last known owner of the videotape recording. (Amended July 1, 1990)

(F) When any court paper, file or page from the books of any public official is offered in evidence, a photocopy thereof shall be furnished forthwith by the party offering the same, and the original returned to the lawful custodian thereof. Photocopies of any other document may, with the trial judge's approval, be substituted for the originals as exhibits.

(G) Application for transcripts on appeal or if otherwise ordered of criminal or civil matters by counsel of record shall be only for that portion of the record necessary to illustrate the error(s) claimed or as may be required. The official shorthand reporter shall transcribe only as much of the proceedings as specifically ordered in writing by counsel of record. Counsel so making the request shall also advise on the same day all opposing counsel of that written request to the reporter of those positions ordered.

#### **(H) Mental Capacity**

(1) In case a person is found incompetent to stand trial under provisions of Revised Code 2945.38 (B) (2), the Court's Mental Health Liaison or other designee shall file an affidavit as a ministerial function in the Probate Court certifying the appropriate finding or findings of this Court. The Mental Health Liaison shall send to the Probate Court copies of all written reports of the defendant's mental condition that were prepared pursuant to Section 2945.371 of the Revised Code. Upon first appearance at the court and;

(2) In any case where the Court has appointed an examiner pursuant to Revised Code Section 2945.37 et seq, said examiner shall transmit reports to the Mental Health Liaison or other designee of the Court. The Mental Health Liaison Court Administrator shall further deliver the original report to the clerk for filing. The clerk shall maintain such reports separately, whether in paper or electronic format, in a manner that preserves the confidentiality of the report(s). The receipt of this

filing shall be clearly entered in the clerk's journal, and in the event of an appeal, an appropriate document should be reflected in the transcript of the dockets, records and journal entries that the Clerk of Court of Appeals has said confidential evaluation reports. Such evaluation reports shall only be released upon order of the judge that requested the report or the Administrative Judge.

**(I)** In order to provide remote public access to Court records the Hamilton County Clerk or Courts publishes certain court records on the Clerk's website [www.courtclerk.org](http://www.courtclerk.org)

**(1)** The Clerk of Courts may provide remote public access over the internet to the following classes and formats of court records:

- (a)** Litigant/Party indexes to civil and criminal cases filed with the Court searchable by party name, judge, date filed or case number;
- (b)** Register of actions or dockets showing a list of what documents have been filed in a case;
- (c)** Calendars of cases scheduled before the various courts or judges, searchable by case no., party, attorney, judge or room and time;
- (d)** Judgment s, orders or decrees in a case searchable by party or case number;
- (e)** Liens affecting title to real estate;
- (f)** Images of documents filed in a case not otherwise excluded from remote public access by this rule, court order, or upon request of the parties in accordance with paragraph 4 or 5 below.

**(2)** The Clerk of Courts shall not provide remote public access over the internet to the following classes and formats of court records:

- (a)** Trial exhibits;
- (b)** Transcripts of court proceedings or Grand Jury proceedings;
- (c)** Jury venires, questionnaires, seating charts or verdict forms;
- (d)** Traffic tickets, Criminal warrants, Criminal affidavits, Police referral records or any other document routinely containing social security numbers;
- (e)** Criminal bond records that contain personal and financial information regarding the surety;
- (f)** Applications for Civil protection orders that are pending and the index thereto, until a final order is granted;

- (g) Domestic Relations filings other than the complaint, answer and decree;
  - (h) Domestic Relations family files;
  - (i) Search warrants and applications for telephone subscriber information and affidavits in support thereof;
  - (j) Unless sealed in accordance with paragraph 5 below, such documents shall be available only at a Court facility or pursuant to paragraph 3 below.
- (3) As technology allows, the Clerk should provide secure remote access to Court Records that are otherwise available only at a Court facility pursuant to paragraph 4 below, over the Internet to Court authorized individuals, parties, counsel, Court officers and staff. Unless sealed in accordance with paragraph 5 below, documents and records excluded from remote public access over the internet shall be imaged and available on the Court Management System (CMS) and at the office of the Clerk according to the access policies of the Clerk of Courts.
- (4) Upon motion of a party, a person with interest in the court record, or on the Court's own motion, an assigned judge may order that all or certain records pertaining to an assigned case shall not be published on or shall be removed from the official web site. In limiting the remote public access to a record, the Court should use the least restrictive means that achieved the purposes of the access policy and the needs of the requester. Unless such record is subject to non-disclosure under some exception to the public record law or is sealed in accordance with paragraph 5 herein, there shall be an obvious notation on the official web site that said document or information has been withheld and is available in the official records of the Court. In deciding such a motion, the Court shall consider the following factors:
- (a) The need to maximize accessibility to court records;
  - (b) Support the role of the judiciary;
  - (c) Promotion of governmental accountability;
  - (d) Public safety;
  - (e) Risk of injury to individuals;
  - (f) Protection of propriety business information;
  - (g) Protection of individual privacy rights and interests;
  - (h) Possible reluctance to use the Court to resolve disputes;
  - (i) The most effective use of Court and Clerk of Court staff;
  - (j) Service to the Community;

- (k) The possible burden on the ongoing business of the judiciary.
- (5) Any party may apply to the Court by a motion pursuant to Criminal Rule 16 or Civil Rule 26 or otherwise in accordance with common law for the sealing of all or any part of an official Court file. Such request shall be by written motion. Any order to seal all or part of a Court public record shall be by journal entry. Such journal entry shall include in its caption either (1) Order to Seal Entire Record or (2) Order to seal Document. Where the journal entry directs the Clerk to seal a Court fil the Clerk shall keep said records safely and allow no access to said records except by written Court order. Where an entire file is sealed, the index and case number only shall be available on the Court Management System (CMS) and may be published for remote access and shall otherwise state that the record is held under deal pursuant to Court order with reference to this rule. Otherwise, any file, record or document ordered sealed shall not be published by the Clerk on the internet. Nothing herein shall interfere with the Clerk’s appropriate expungement of records pursuant to Revised Code Section 2953.31 et seq. or 2953.51 et seq.
- (6) The Clerk of Courts does not review the contents of and is not responsible for the contents of any record or document filed in that office this is provided for remote public access over the internet. The Clerk of Courts is not responsible for the use, misuse or theft of any information that is provided for remote access over the internet.
- (a) Parties and counsel should expect that documents or records filed with the Clerk of Courts and not excluded from remote public access in paragraph 2 above will be made available for remote public access over the internet. Parties and counsel are encouraged to avoid unnecessarily memorializing in court filings, social security numbers, names of minor children or other personal information which might contribute to identity theft. If a date of birth or an account number must be referenced, it is ordinarily appropriate to use only the year, or the last four digits of the account. If names of minor children must be referenced it is appropriate to use the child’s initials, or a generic abbreviation such as “CV” for “child victim”.
- (b) Where a party find it necessary to file an otherwise proper document containing personal identifying information which may implicate privacy or security concerns the party should request limited access to that document or record pursuant to paragraph 4 or 5 above. (Effective January 1, 2012).

**Effective: (March 1, 2023)**

## RULE 12. Extensions of Time to Move or Plead by Stipulation

Parties may obtain an extension of time, not to exceed 28 days, in which to move, answer or otherwise plead, when no such prior extension has been granted, by filing with the Clerk of Courts a written stipulation providing for such extension. The stipulation shall affirmatively state that no prior extension has been granted, and must be filed before the expiration of the period originally prescribed, as set forth in Civil Rule 6 (B)(1).

**Effective: (date)**



## RULE 13. Default

### **(A) Liquidated Damages and No Appearance by Non-Moving Party**

- (1) A party moving for a default Judgment with liquidated damages shall file an affidavit along with their motion for default Judgment containing sufficient information in support of the damages claim. The moving party must also file a military affidavit if the defaulting party is an individual, setting forth whether or not that party is an active member of the armed service.
- (2) After filing the motion with the Clerk of Courts, the moving party shall leave a time stamped copy of the motion and affidavit(s) with the Court of Common Pleas Magistrate along with the proposed Judgment entry.

### **(B) Unliquidated Damages/Non-Moving Party has Made an Appearance**

- (1) If a damage claim is unliquidated, and/or if the party against whom the judgment by default is sought has appeared in the action, a hearing is required before the Court of Common Pleas Magistrate. Counsel shall schedule the hearing on the motion for default with the Assignment Commissioner.
- (2) Prior to the hearing, the moving party must file a military affidavit if the defaulting party is an individual, setting forth whether or not that party is an active member of the armed forces.
- (3) If the party against whom judgment by default is sought has appeared in the action, he/she shall be served with written notice of the application for Judgment at least seven days prior to the hearing on such application.
- (4) At the hearing on unliquidated claim, the party requesting the default shall present to the Magistrate sufficient evidence to support the award of the default. The Magistrate may require testimony under oath.
- (5) If, at the hearing before the magistrate, any opposition develops to the granting of the default Judgment or damages, the magistrate shall take no action but shall advise counsel for the moving party to set the matter before the assigned Trial Judge unless the case had previously been referred to the magistrate.
- (6) Following the docketing of a Magistrate's Decision, at the end of the objection period, the prevailing party shall present a Default Judgment Entry to the assigned Trial Judge.

- (C) In foreclosure actions the order of reference to the magistrate shall include pre and post judgment proceedings.

**Effective: (March 1, 2023)**

## **RULE 14. Motions, Memoranda and Procedure Thereon**

- (A) All motions shall be accompanied by a memorandum in support of the motion which shall be a brief statement of the grounds for the same, with citations of authorities relied upon, and (except in the case of an ex parte motion) proof of service in accordance with Civil Rule 5. All memorandum filed with a motion or in response thereto shall include page and document references for all factual assertions. (Amended effective April 15, 1993)
- (B) Any memorandum contra to said motion shall be served upon movant's trial attorney within fourteen days from the date the memorandum in support of the motion and proof of service thereof, was served. Any memorandum contra to a motion for summary judgment shall be served within twenty-eight days after service of the motion. Failure to serve and file a memorandum contra may be cause for the Court to grant the motion as served and filed. A reply memorandum may be served and filed within seven days of the service of memorandum contra. The time periods set forth in this paragraph B may be extended by the Court, for good cause shown, upon application therefor.
- (C) No motions in civil cases, will be set for oral argument unless:
- (1) A written request is made therefor by the moving party, or any other party, which request shall be noted conspicuously in the writing, or
  - (2) The Court directs the Assignment Commissioner to set such motion for oral argument

Upon receipt of such request from counsel, and at such counsel's direction, the trial judge may make whoever disposition the judge feels is proper or may set the matter for oral argument

### **(D) Discovery**

With respect to discovery, it shall be the policy of this Court to minimize resort to judicial intervention in the discovery process. It is also intended that Interrogatories and Requests shall not be filed with the Courts except in those cases where informal, out-of-court attempts at discovery are ineffective and it becomes necessary to file a Motion to Compel Discovery under the provisions of Rule 37 (A), Ohio Rules of Civil Procedure.

#### **(1) Consultation Among Counsel**

No objections, interrogatories, motions, applications or requests related to discovery shall be filed under the provision of Rules 27 to 37. In the Court unless counsel have exhausted all extrajudicial means for the resolution of differences.

## **(2) Motion to Compel Discovery**

To the extent that extrajudicial means have not disposed of the matter, the party seeking discovery may then proceed with the filing of a Motion to Compel Discovery under Rule 37. The motion shall be accompanied by a supporting memorandum which will state the movants legal basis which would warrant an Order Compelling Discovery. The memorandum filed should be concise, addressing itself only to those relevant issues and should generally not exceed ten pages. The motion and memorandum shall also be accompanied by:

- (a) An affidavit of counsel setting forth what extrajudicial means have been attempted to resolve the differences; and
- (b) A copy of the Interrogatories, Applicant Requests, etc. which have previously been served pursuant to Ohio Rules of Civil Procedure. No interrogatories, applications or requests shall be filed in the Court except in connection with a Motion to Compel Discovery.

## **(3) Objection to Discovery Motion**

Objections to any Discovery Motion filed pursuant to Rule 37 shall be filed within the time specified, or if no time is specified, within the time specified in Rule 33. In all other respects, a Motion to Compel Discovery will be treated as any other motion under these rules.

**Effective: (January 17, 2024)**

## Rule 14.1 Bond

In the event that a criminal defendant is bound over to, or indicted by the Grand Jury, the Common Pleas Court automatically recognizes the bond, if any, set in the Municipal Court, until the defendant is arraigned and a bond is set in the Common Pleas case by a Common Pleas Judge or Magistrate. Any defendant whose previously set Municipal Court bonds consist of both secured bonds and 10 percent appearance bonds under one indictment number must appear in person for Common Pleas arraignment.

**Effective: (July 1, 2023)**

## Rule 14.2 Setting Aside Bond Forfeiture Judgment s

A motion setting aside a bond forfeiture Judgment must be filed with the Clerk of Courts and served on the Hamilton County Prosecutor. Judgment

**Effective: (March 1, 2023)**

## Rule 15. Case Management

**(A)** In accordance with Civil Rule 16, within ninety (90) days after a cause is filed, one hundred twenty (120) days as to foreclosure cases, the judge to whom such cause is assigned shall conduct a case management conference. In all civil matters except those listed in Civil Rules 1 (C), the Assignment Commissioner shall set an initial case management conference within sixty (60) days after any defendant is served with the Complaint.

Status. Pretrial and settlement conferences may be scheduled at the discretion of the Court. Specific case management practices and orders for individual judges may be found at the Court's official website: [www.hamiltoncountycourts.com](http://www.hamiltoncountycourts.com)

**(B)** Criminal cases shall be assigned to a judge, pursuant to Local Rule 7, The Assignment Commissioner shall schedule the case for a Disposition Scheduling Conference within fifteen (15) days after arraignment unless otherwise directed by the Assigned Judge. Notice of the Disposition Scheduling Conference shall be prepared by the Assignment Commissioner and distributed to the defendant or the defense attorney at arraignment.

**Effective: (March 1, 2023)**

## RULE 16. Judgments Upon Warrant of Attorney to Confess

Judgments by confession, upon a warrant of attorney, will not be entered in the absence of the defendant, except upon proof, satisfactory to the Court, of the signature of the maker upon the warrant of attorney or other instrument upon which Judgment is sought to be taken. As a condition precedent to the entering of judgment, the original warrant of attorney shall be produced in open Court, and the Court shall satisfy itself that the warning required by Revised Code Section 2323.13 (D) appears on the instrument upon which judgment is sought to be taken and such instrument was executed on or after January 1, 1971. Immediately upon entering a judgment by confession, upon a warrant of attorney, the Court shall cause to be sent to the defendant a certified letter, return receipt requested, mailed to the defendant of the entry of the judgment against the defendant, in accordance with Revised Code Section 2323.13 (C).

**Effective: (March 1, 2023)**

## RULE 17. Journal Entries

- (A) When the Court signs a judgment as defined in Ohio Civil Rule 54 from which an appeal lies, as provided in Revised Code Section 2505.02, the Court shall affix a uniform stamp in red ink identifying said judgment and directing the clerk to serve all parties pursuant to Ohio Civil Rule 58.
  
- (B) When a request is duly made for findings of fact and conclusions of law, the judgment may direct the party making the written request to prepare within five days proposed findings of fact and conclusions of law and submit them to opposing counsel. Within ten days after receipt by the opposing counsel the proposed findings shall be submitted to the Court with objections and counterproposals if any in writing; however, only those findings of fact and conclusions of law made by the Court shall form part of the record.

**Effective: (March 1, 2023)**



## RULE 18. Disposition of Cases Called for Trial

If a cause is called for trial and the party prosecuting such cause fails to respond, either in person or by plaintiff's attorney, the Court may dismiss such action, after notice to plaintiff's trial attorney in accordance with Civil Rule 41 (B) (1), or make such other disposition of the cause as the circumstances require. If the defendant fails to respond, either in person or by defendant's trial attorney, the Court may proceed as on default, provided the notice requirements of Civil Rule 55 (A) are met. If neither plaintiff nor defendant responds in person or by their respective trial attorneys, the Court may make such disposition of the cause as it sees fit, after notice is given in accordance with the Civil Rules and these Rules.

**Effective: (March 1, 2023)**

## RULE 19. Judgment Debtor Exams

- (A) In accordance with the provisions of Revised Code Chapter 2333, a motion for order of appearance of judgment debtor shall be filed as all other motions with the Clerk of Courts (except that no memorandum in support thereof shall be required), and shall be set for hearing before a Magistrate of this Court; the attorneys for the judgment creditor shall notify the judgment debtor of the hearing by regular mail, postage prepaid, addressed to judgment debtors last known address advising the judgment debtor of the time and place of hearing on said motion; if the judgment debtor fails to appear on that date, the judgment debtor shall be examined at that time; if the judgment debtor fails to appear and it appears that the notice sent to the judgment debtor has not been returned or delivery thereof has been refused, the judge shall issue an order for an appearance for examination as a judgment debtor; if the judgment debtor fails to appear on the date so set and has been duly served with summons, a citation for contempt shall be issued, returnable one week thereafter; if the judgment debtor has been served personally with such citation and fails to appear, a body attachment shall be issued for the judgment debtor, returnable one week thereafter, with a suitable bond fixed by the magistrate.
- (B) Judgment debtor proceedings shall not be filed on any cause more often than once every six months unless the party filing the same or that party's attorney, filed an affidavit setting forth that the party has good and sufficient reason to believe that the status of the judgment debtor has changed since the previous order was filed, or unless the party or that party's attorney personally secured the written permission of the Assistant or Second Assistant Presiding Judge.
- (C) There shall be no charge for filing the first order for appearance of judgment debtor in any case, but there shall be a charge for each subsequent order for appearance of judgment debtor of one dollar to be advanced by the party seeking such order to apply on the cost of same. If an order for appearance of judgment debtor is filed earlier than six months from the previous order and it appears upon examination that the party seeking same did not have good reason to request the Assistant or Second Assistant Presiding Judge for such examination, the costs of such proceedings, at the discretion of the magistrate, shall be paid by the party seeking the order before an order for the appearance of the judgment debtor can again be allowed.
- (D) Motions for judgment debtor's examination shall be scheduled for hearing with the Assignment Commissioners Office.

**Effective: (March 1, 2023)**

## RULE 20. Fees

### **(A) Partition Cases**

Fees allowed in partition cases as costs therein shall be predicated either upon the appraised value of the property, if partitioned, or upon the proceeds of sale, if sold, and shall not exceed the following: seven percent of any sum not exceeding \$10,000; four percent of any sum exceeding \$10,000 and not exceeding \$15,000; three percent of any sum exceeding \$15,000; provided that the minimum fee in any partition case shall not be less than \$100. If any action for partition is terminated other than upon the merits, the trial attorney for plaintiff shall be allowed a fee for the reasonable value of that attorney's services, commensurate with the time and labor required and expended, the novelty and difficulty of the questions involved, and the skill requisite to perform the service properly. The Court shall tax in costs the fees so allowed in favor of the trial attorney for plaintiff, unless the Court awards some part thereof to the other trial attorneys in the cause for services for the common benefit of all parties.

### **(B) Receivers**

Fees of receivers and their attorneys shall be allowed only upon an application filed in the cause with an affidavit setting forth in detail the services rendered in the case. Written notice of the time and place of the hearing of said applicant shall be served upon all attorneys, parties and known creditors, a reasonable time before hearing. The Court may direct that notice be given by publication or in such other manner as it deems proper. If the property involved in the receivership is not sufficient to pay court costs, receiver's fees and the premium on the receiver's bond, the fee of the receiver, together with the premium for receiver's bond, shall be taxed as costs in the action, which shall be paid by the party upon whose application the appointment of a receiver was made. The minimum fee of a receiver shall be \$100.

### **(C) Defense of Indigent Persons**

A schedule of fees for the defense of indigent persons has been established by resolution of the Board of County Commissioners pursuant to Revised Code Section 2941.51 (B). The Court Administrator shall maintain a copy of the current schedule on file at all times.

(Amended September 17, 1982)

### **(D) Forensic Examiners**

In any criminal case in which the Court appoints one or more independent forensic examiners to evaluate the mental condition of the accused, the fee allowable for such examination and for the testimony of such specialists in Court shall be \$125.00 per hour.

Unless otherwise ordered by the trial judge the maximum allowable for examination, evaluation and written report as provided in Section 2945.371 of the Revised Code shall be \$625.00 (up to 5 hours) and the maximum allowable for testimony shall be \$625.00. At the discretion of the trial judge and upon satisfactory documentation additional compensation may be granted at the rate of \$125.00 per hour. Such billings will be routinely examined by the Court Administrator.

### **(E) Deposition**

In the event an order is made for the taking of depositions in a criminal Prosecution, the attorney assigned for the defendant and the Hamilton County Prosecuting Attorney and/or the Prosecuting Attorneys assistant shall be allowed the necessary expense incurred at the place of taking such depositions and expense of travel not to exceed the reimbursement rates established by the Board of County Commissioners for officers and employees of Hamilton County. A copy of the most recent resolution concerning this subject shall be made available to appointed counsel and the Prosecuting Attorney by the Court Administrator.

(Amended September 17, 1982)

- (1) Application for advanced for the purpose of attending a deposition shall first be approved by either the Hamilton County Prosecuting Attorney or the Public Defender. The application should then be presented to the Assigned Judge for approval and delivered to the Court Administrator for coding and approval. Such advances shall be limited to the amount required for transportation and lodging. If an advance is approved and received, an accounting must be filed no later than 30 days after the completion of the deposition.
- (2) All claims for reimbursement for travel expenses or accountings for advances shall be made on the standard county form labeled "Travel Expense Voucher" available from the Court Administrator. All claims must be supported by receipt or affidavit. The Prosecutor shall present such voucher to the Court Administrator and appointed counsel shall present said vouchers to the Public Defender, who shall routinely review, code and approve same.

### **(F) Interpreters**

In any case in which the Court appoints an interpreter for persons with hearing, speech or other impediments, the fee allowable for such services, pursuant to Revised Code Section 2311.14, shall be \$45.00 per hour. A one hour minimum will be billed if after a twenty (20) minute wait for the scheduled start time, interpreter serviced cannot be initiated due to the unavailability of the client. Whenever possible, the Court will give 48 hours' notice.

(Effective as of October 1, 1991)

**(G) Transcripts**

Pursuant to Revised Code Sections 2301.24 and 2301.25, the fee for an original official transcript of a Court proceeding in either civil or criminal case is on a per page basis as listed below. These rates apply for any transcript ordered on or after September 10, 2012.

(Effective September 10, 2012)

(1) Regular Rate.....	\$4.50
Expedited (by 8 a.m. the next calendar day) rate.....	\$7.95
1 to 5 business day(s) rate.....	\$5.95
6 to 10 business days rate.....	\$5.45
Realtime (unofficial transcript) rate.....	\$7.95

(Effective September 10, 2012)

- (2) The fee for a copy of a prepared transcript is \$0.10 per page for a paper copy or free from an electronic copy.

(Effective February 1, 2008)

**(H) Appraiser**

The fee for each appraiser appointed pursuant to Revised Code Chapter 2329 shall be \$125.00, for a combined total of \$375.00 per parcel.

(Effective February 1, 2008)

**(I) Grant of Costs**

In the event that an indigent party requests a transcript of official shorthand notes in a criminal case, and is not represented under the Public Defender Program, there must be a signed Entry by the Trial Court granting the cost of such transcript be taxed into costs at the State’s expense.

(Effective June 1, 1992)

**(J) Public Defender & Assigned Counsel**

In all criminal cases wherein the defendant is represented by a Public Defender or Assigned Counsel and the Court orders as part of the sentence that the defendant pay costs, the Clerk

of Courts shall assess the \$25.00 application fee, pursuant to Revised Code 120.36 and the reimbursement of the Public Defender fees in the amount of \$75.00 for probation violations, \$325.00 for a plea, \$600.00 for a trial, and \$750.00 for a jury trial and the defendant shall be required to pay such amount unless the Court specifically waives this requirement in its sentencing entry.

(Effective July 1, 2006)

**(K) Photocopies**

Where the statutes or ruled require the clerk of the trial court to make a photocopy of the transcript of the proceedings, the court reporter shall file an additional transcript of proceedings with the Court at the rate set out in section (G) (2) above. Where the public photocopies said transcript, the clerk will instruct the transcript binding shall not be broken. Broken binding will render the transcript certification void.

(Effective September 16, 1997)

**Effective: (March 1, 2023)**

RULE 21. [RESERVED]

**Effective: (March 1, 2023)**

RULE 22. Notary Public:

Notary Commissions are obtained through the Ohio Secretary of State per Ohio Revised Code 147.

**Effective: (March 1, 2023)**



## RULE 23. Magistrates

### **(A) Appointment**

Magistrates shall be appointed by the Court and serve as full time employees of the Court as provided by Civil Rule 53, and shall also serve as Magistrates under Criminal Rule 19.

### **(B) Categories of Referred Cases**

The following category of cases are assigned to the Common Pleas Magistrates:

- (1) Civil Protection Orders
- (2) Foreclosures
- (3) Certification of title for motor vehicles
- (4) Default judgment including: Default judgment damages hearings
- (5) Requests to set aside bond forfeitures
- (6) Civil forfeitures
- (7) Certificated of qualification of employment
- (8) Poverty affidavit hearings
- (9) Garnishments
- (10) Attachments
- (11) Replevins
- (12) Judgment debtor exams
- (13) Forcible entry and Detainer
- (14) Evictions

**(15) Administrative Appeals**

**(16) Felony Arraignment and Bond**

This is a non-exclusive list and other categories of cases may be referred by the Court to the Magistrates from time to time.

**(C) Specific Referrals**

In addition to the categories assigned to the magistrate's, a magistrate may do any of the following which is referred to him or her by the Trial Judge including:

- (1) Determine any motion in any civil case, including discovery motions, and motions in criminal cases in accordance with Criminal Rule 19, which is limited to indicted misdemeanor charges;
- (2) Conduct the trial of any case that will not be tried to a jury, criminal or civil, in criminal cases, a referral is limited to indicted misdemeanor charge or charges;
- (3) Jury Trials where the parties have given unanimous written consent under Civil Rule 53;
- (4) Conduct proceedings upon application for the issuance of a temporary protection order authorized by law;
- (5) Exercise any other authority specifically vested in magistrates by statute and consistent with Civil Rule 53.

**(D) Magistrate's Orders**

A magistrate may enter orders without judicial approval if necessary to regulate the proceedings and if not dispositive of a claim or defense of a party. Orders must be in writing and filed with the Clerk. [Civil Rule 53 (D)(2)].

**(E) Objections to a Magistrate's Order**

Any party may file a motion to set aside a magistrate's order pursuant to Civil Rule 53 (D) and must be filed no later than ten (10) days after the magistrate's order was filed. The pendency of a motion to set aside does not stay the effectiveness of the magistrate's order, though the magistrate or the Court may by order stay the effectiveness of a magistrate's order. Memoranda contra the objection must be filed within 10 days of filing of the original objection. Requests for findings of fact and conclusions of law will stay the time for filing objections.

**(F) Magistrate's Decisions**

A magistrate shall issue a decision respecting any matter referred under Civil Rule 53 (D)(1) where that matter is dispositive of a claim or defense of a party.

- (1) Findings of fact and conclusions of law. Subject to the terms of the relevant reference, a magistrate's decision may be general unless findings of fact and conclusions of law are timely requested by a party or otherwise required by law. A request for findings of fact and conclusions of law shall be made before the entry of a magistrate's decision or within seven (7) days after the filing of a magistrate's decision. If a request for findings of fact and conclusions of law is timely made, the magistrate may require any or all of the parties to submit proposed findings of fact and conclusions of law. [Civil Rule 53 (D)(3)]
- (2) A magistrate's decision must be in writing, filed with the clerk and comply with Civil Rule 53 (D)(3).
- (3) A magistrate's decision is not effective unless adopted by the Court. A Court that adopts, rejects or modifies a magistrate's decision shall also enter a judgment or interim order pursuant to Civil Rule 53.

#### **(G) Objections to the Magistrate's Decision ~~or Order~~**

##### **(1) Time Limits on Objections**

Objections to the Magistrate's Decision along with memoranda in support thereof shall be timely files by any party in accordance with Civil Rule 53. Memoranda contra objections may be filed by any party within ten (10) days of filing of the original objection. Requests for findings of fact and conclusions of law will stay the time for the filing of objections.

##### **(2) Extension of Time for Objections**

The time limits established by Civil Rule 53 for the filing of objections to a magistrate's decision or order may be extended by the trial judge by filing a motion for a continuance supported by an affidavit stating facts indicating a practical impossibility of compliance.

##### **(3) Transcript**

If a transcript is necessary to support objections to the magistrate's decision or order, the transcript must be filed by the moving party within thirty (30) days after the filing of the objections. The request for a transcript shall be submitted to the court reporter within three (3) days after the filing of the objections. A Court may extend the time for preparation of the transcript.

#### **(H) Felony Arraignment and Bond**

Unless conducted by the trial judge, a magistrate shall conduct arraignment and set bond. Post-arraignment, any request for bond review shall be heard by the assigned trial judge.

**(I) Magistrate Order or Decision**

The Magistrate will issue his or her order or decision after the trial or hearing in accordance with Civil Rule 53 but may require that briefs, proposed findings or other memoranda be submitted by counsel prior to the issuance of the order or decision.

**(J) Motions to Set Aside a Magistrate's Order and Objections to Magistrate's Decision**

A Motion to Set Aside and Magistrate's Order or Objections to the Magistrate's Decision along with memoranda in support thereof shall be timely filed by any party in accordance with Civil Rule 53. Memoranda contra objections may be filed by any party within ten (10) days of filing of the original objection. Requests for findings of fact and conclusions of law will stay the time for the filing of objections.

**Effective: (March 1, 2023)**

RULE 24. [RESERVED]

**Effective: (March 1, 2023)**

RULE 24.1 [RESERVED]

**Effective: (March 1, 2023)**

## RULE 25. Court Administrator

### **(A) Duties**

The Court shall appoint as required a qualified court administrator who will function as the chief non-judicial officer of the Court. In addition to providing general supervision of the Court's case flow, probation, jury, budgetary, and personnel systems, the court administrator will implement the administrative policy decisions of the Court and perform such other duties as may be assigned by the majority of the general division or the Presiding Judge.

### **(B) Selection**

The court administrator will be appointed and removed and the court administrator's salary determined by vote of the majority of the judges in the General Division of the Court of Common Pleas.

**Effective: (March 1, 2023)**

## RULE 26. Effective Date; Repeal; Amendments

- (A) The original rules took effect on the 1<sup>st</sup> day of October, 1973, and after such rules were filed with the Supreme Court of Ohio in accordance with Civil Rule 83 and Criminal Rule 57. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that in the opinion of the Court their application in a particular action pending upon the effective date hereof, would not be feasible, would work injustice, with the Rules of Superintendence, the Rules of Civil or Criminal procedure.
- (B) All former rules of this Court are repealed as of the effective date hereof with respect only to the subject matter of those topics herein contained. All revision effective dates shall be notated at the end of each local rule.
- (C) Amendments and additions hereto may be made from time to time upon the majority affirmative vote of all the judges in office of the general divisions of this Court, but such amendments shall not be effective until filed with the Supreme Court of Ohio in accordance with Civil Rule 83 and Criminal Rule 57.

**Effective: (March 1, 2023)**

RULE 27. [RESERVED]

**Effective: (March 1, 2023)**



RULE 28. [RESERVED]

**Effective: (March 1, 2023)**

RULE 29. [RESERVED]

**Effective: (March 1, 2023)**

## RULE 30. Media Coverage of Court Proceedings

### **(A) Presiding Judge**

- (1) Consistent with Rule 12 of the Rules of Superintendence for the Courts of Ohio, requests for permission to broadcast, televise, photograph or otherwise record Court proceedings that are open to the public as provided by Ohio law, shall be made in writing to the judge presiding over the proceeding. The written application and order of the judge granting or denying such application shall be made part of the record of the proceedings.
- (2) Requests shall be made on a form “Application Requesting Permission to Broadcast, Televise, Photograph or Record Courtroom Proceedings” available through the Court Administrator. Applications shall be made as far in advance as possibly but not less than 30 minutes prior to the courtroom session to be recorded. The judge may waive advance notice for good cause.
- (3) Only representatives of federally licensed broadcast or cable media outlets (licensed by the Federal Communications Commission) or a member of the Associated Press, Reuters, or otherwise nationally recognized news/wire service or local print or internet media business entities who regularly report on cases occurring in the Hamilton County Courthouse (collectively “Authorized Media Representatives”) shall be permitted to submit a Media Application.
- (4) After consultation with the media, the judge shall specify the place or places in the courtroom where the operators and equipment are to be positioned.

### **(B) Permissible Equipment and Operators**

- (1) Use of more than one portable television, videotape or movie camera with one operator shall be allowed with permission of the judge.
- (2) Not more than one still photographer shall be permitted to photograph Court proceedings without permission of the judge. Still photographers shall be limited to two cameras with two lenses for each camera.
- (3) For radio broadcast purposes, not more than one audio system shall be permitted in Court. Where available and suitable, existing audio pickup systems in the Court facility shall be used by the media. If existing audio pickup systems are not available,

microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possibly but shall be visible.

- (4) Visible audio recording equipment may be used by news media reporters with the prior permission of the judge.
- (5) Arrangements between or among media for “pooling” of equipment shall be the responsibility of the media representative(s) authorized to cover the proceedings. “Pooling” arrangements are to be made outside the courtroom and without imposing on the judge or court personnel. If disputes arise over arrangements between or among media representatives, the judge may exclude all contesting representatives from the proceedings.
- (6) The judge shall prohibit the use of electronic or photographic equipment that produces distracting sound or light. No artificial lighting other than that normally used in the courtroom shall be employed, provided that, if the normal lighting in the courtroom can be improved without becoming obtrusive, the judge may permit the modification.
- (7) Still photographers and television and radio representatives shall be afforded a clear view but shall not be permitted to move about in the courtroom during court proceedings from the places where they have been positioned by the judge, except to leave or enter the courtroom.

### **(C) Limitations**

- (1) There shall be no audio pickup or broadcast of conferences conducted in a court facility between attorneys and clients or co-counsel or of conferences conducted at the bench between counsel and the judge.
- (2) The judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.
- (3) Unless permitted by the judge, there shall be no filming, videotaping, recording, or photographing of jurors or prospective jurors. In courtrooms where the filming, videotaping, recording, or photographing of trial participants is impossible without including the jury as part of the background, it shall be permitted only when individual jurors cannot be identified. Close-ups identifying individual jurors shall be prohibited.
- (4) Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.
- (5) Except when expressly permitted by a Hamilton County Judge under this Rule, recordings shall not be made by anyone anywhere in the Courthouse.
  - (a) Take or record a photograph, video, or other visual image, or;

(b) Record, transmit, or receive audio or sound

**(D) Revocation of Permission**

Upon the failure of any media representative to comply with the conditions prescribed by this rule or the judge, the judge may revoke the permission to broadcast or photograph the court proceedings.

**Effective: (August 15, 2023)**

## RULE 31. Mediation

**(A) Cases for Mediation**

Any civil case filed in the Court of Common Pleas General Division may be referred to Mediation by order of the Court, except cases involving domestic violence or abuse per Sup.R. 16.24, civil protection orders prohibited by Sup.R. 16.30, and petitions to perpetuate testimony (Civ.R. 27).

All mediations shall be conducted in accordance with the “Ohio Uniform Mediation Act”, R.C. Chapter 2710.

**(B) Referral to Mediation**

- (1) The judge may, by appropriate entry, refer a case to Mediation and state a date by which mediation must be concluded. If required by the referring judge, prior to such referral counsel for the parties must complete the “Mediation Referral Readiness Questionnaire” which will be attached to the entry of referral.
- (2) Any party may request, in writing to the judge, that the case be considered for referral to Mediation.
- (3) The Court shall utilize procedures for all cases that will:
  - (a) Ensure that the parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.
  - (b) Screen for domestic violence both before and during mediation.
  - (c) Encourage appropriate referrals to legal counsel and other support services for all parties, including victims and suspected victims of domestic violence.
  - (d) Prohibit use of mediation in any of the following:

- (1) As an alternative to the prosecution or adjudication of domestic violence;
- (2) In determining whether to grant, modify or terminate a protection order;
- (3) In determining the terms and conditions of a protection order;
- (4) In determining the penalty for violation of a protection order.

**(4) Duty of Parties and Counsel to Report Domestic Abuse to Mediation Staff**

If the opposing parties to any case have either resided in a common residence or are related by blood, adoption, or marriage, and have known or alleged domestic abuse at any time prior to the mediation, then the parties or their counsel have a duty to disclose such information to the Mediation staff. Such party shall have a duty to participate in any screening required by Rule 16.24 of the Supreme Court of Ohio's Rules of Superintendence both prior to and, in the mediator's discretion, during the mediation session(s).

- (5) Referral of a case to Mediation shall not operate as a stay of discovery proceedings, trial, or other court order unless otherwise ordered by the Court.

**(C) Mediation Conferences**

- (1) The mediator may direct the parties and their attorneys to attend a mediation conference in person or remotely. Such a conference shall be conducted by the mediator to consider the possibility of settlement, the simplification of the issues and any other matters which the mediator and the parties determine may aid in the handling or the disposition of the proceedings.
- (2) Mediation shall continue until the parties have reached a settlement, until they are unwilling to proceed further or until the mediator determined that further mediation efforts shall cease. The mediator may schedule such sessions as may be necessary to complete the process.
- (3) The mediator may request that the parties make available at mediation documents and witnesses, including expert witnesses, but has no authority to order such production.
- (4) The mediator shall ensure the parties memorialize any agreements in principle.

**(D) Mediation Fees**

- (1) No fees shall be charged for civil cases referred to the Hamilton County Court of Common Pleas Mediation Service.

- (2) If the parties agree to use a private and not the Common Pleas Mediation Service, the parties shall share the cost of the mediation in such proportions as they may agree.

**(E) Privilege & Confidentiality**

- (1) Mediation communications are privileged as described in Ohio Revised Code Chapter 2710.
- (2) The parties and participants shall sign a written confidentiality agreement prior to mediation.
- (3) The mediator shall not disclose to the Court or to any judge of the Court the contents of mediation discussions unless agreed to by all parties in writing.
- (4) No party to mediation shall call the mediator as a witness for any purpose.

**(F) Reporting to Court**

- (1) The mediator shall notify the Court promptly when a case is not accepted for mediation. Immediately at the conclusion of the mediation, the mediator will report in writing to the Court the fact that the mediation process has ended.
- (2) Immediately after a case or issues are settled (through court mediation, private mediation, or otherwise), the parties shall prepare and submit to the Court an entry reflecting the case has settled.
- (3) If some but not all of the issues in the case are settled during court or private mediation, or otherwise, or if agreements are reached to limit discovery or on any other matter, the parties shall submit a joint written statement to the Court enumerating the issues that have been resolved and the issues that remain pending. The statement shall be submitted immediately after the termination of mediation.

**Effective: (March 1, 2023)**

RULE 32. [RESERVED]

**Effective: (March 1, 2023)**



## RULE 33. Hamilton County Courthouse

This Local Rule applies to all Court Facilities. For purposes of this Local Rule, “Court Facilities” includes the Hamilton County Courthouse at 1000 Main Street, Cincinnati, Ohio (Courthouse), and to Common Pleas, General Division and Municipal Court courtrooms and operations in the Hamilton County Justice Center at 1000 Sycamore Street, Cincinnati, Ohio (Justice Center). The Courthouse and the allocation of space therein rests within the authority of the General Division of the Hamilton County Court Common Pleas (the “Court”).

### **(A) Use of Facilities**

Any person, agency or organization requesting to use interior space within Court Facilities or outside on the Courthouse Square (the plaza and steps) or the Justice Center plaza and steps immediately outside of Justice Center buildings housing Court operations, for any purpose other than ordinary Court business, shall contact Hamilton County Risk Management and request an Application for Permit to Use County Facilities or Property (Building Exterior) or an Application for Permit to Use County Space (Building Interior). Risk Management shall submit all applications for use that involve Court Facilities to the Court Administrator for final approval.

### **(B) Smoking/Tobacco Use Prohibited**

No person shall use any tobacco product or electronic inhalers intended to simulate the act of tobacco smoking in the Courthouse or areas immediately adjacent to locations of ingress or egress to the building. This prohibition includes all tobacco products such as cigarettes, oral tobacco or nasal tobacco, as well as e-cigarettes, personal vaporizers or electronic inhalers and any other devices intended to simulate tobacco products, contain tobacco flavoring or deliver nicotine other than for the purpose of cessation.

### **(C) Hamilton County Courthouse Security**

#### **(1) Security Policy and Procedure Manual**

For purposes of ensuring security in the Courthouse, and in accordance with Rule 9 of the Rules of Superintendence for the Courts of Ohio, the Hamilton County Court of Common Pleas, General Division and the Hamilton County Municipal Court have

developed and implemented a court security plan that addresses the provisions of the Ohio court security standards adopted by the Supreme Court and as set forth in Appendix C to Sup. R. 9. The court security plan, including any security policy and procedures manual, emergency preparedness manual, and continuity of operations manual adopted as part of the court security plan, shall not be available for public access as provided in Sup. R. 9 (B).

**(2) Court Security Officers**

For purposes of these Local Rules, court security officers are individuals employed to perform security duties at the Courthouse, including Hamilton County Sheriff Deputies and the Criminal Bailiffs assigned to Municipal Court. Court security officers are deemed by the Court to be officers of the Court they serve when acting in their official capacity as court security officers in enforcing this and other Local Rules.

**(3) Persons Subject to Security Screening**

All persons entering the Courthouse shall be subject to security at each visit regardless of purpose, subject to the exemptions in this Rule. A security screening exempt person shall carry proper identification at all times while in the Courthouse on official business and shall display identification upon request. A security screening exempt person may be required to submit to security screening when deemed necessary by a court security officer, the hiring agency, or the Administrative and Presiding Judge of the Court of Common Pleas or Municipal Court.

**(4) Security Screening Exemptions:**

**(a) Specified Local Elected Officials and Specified Court Employees**

Elected Officials whose offices are maintained in the Courthouse, Court Employees, Clerk of Court employees, Law Library staff, Building Superintendent staff, Probation Officers, including Probation Officers authorized to carry firearms within the scope of their employment, are exempt from security screening. All Court employees, Clerk of Court employees, Law Library staff, Building Superintendence staff and Probation Officers shall be provided with an identification badge. All such identification badges shall be returned upon the termination of employment of vacating office.

**(b) Law Enforcement**

Uniformed police officers acting within the scope of their employment are exempt from security screening. Uniformed police officers shall display their badges or other identification to gain access to the Courthouse.

**(c) Ohio Attorney Exemption**

Attorneys admitted to practice law in Ohio with an “active” status as defined by the Supreme Court of Ohio, may obtain an attorney identification badge allowing the attorney to bypass security screening. The attorney identification badge shall be presented upon entering the Courthouse.

- (1) The Court Administrator has been designated by the Court as the person who may authorize the Hamilton County Sheriff to issue attorney identification badges. Applications for attorney identification badges are available in Room 410 of the Hamilton County Courthouse between 8:00 a.m. and 4:00 p.m. Upon completion of the application, the Court Administrator will verify the attorney’s registration and “active” status with the Supreme Court of Ohio.
- (2) Attorneys shall take their authorized applications to Room 260 of the Hamilton County Courthouse where attorney badges are issued by the Hamilton County Sheriff between the hours of 8:00 a.m. and 3:30 p.m. upon payment of a \$20.00 fee. Attorney identification badges are valid for two (2) years from the date of issuance, unless revoked. Upon expiration, the application process and payment must be completed again to renew the attorney identification badge.
- (3) Attorney identification badges shall be revoked if an attorney is suspended or disbarred from the practice of law in Ohio, or may be revoked at any time by the Court Administrator or the Administrative and Presiding Judge of the Court of Common Pleas or Municipal Court. Expired attorney identification badges may be confiscated by court security officers and exemption from security screening will be immediately revoked until the badge is renewed.
- (4) Attorneys employed by the Hamilton County Prosecutors Office, and the Hamilton County Public Defender’s office shall follow the same procedure for the issuance of an attorney identification badge described here, but the \$20 fee shall be waived for those currently employed by either of those county offices.
- (5) Attorneys who have been admitted *pro hac vice* and attorneys who have been temporarily certified by the Ohio Supreme Court to practice law for a local legal service or public defender program who wish to be issued a temporary attorney identification badge, shall make a written request to the Court Administrator and shall attach to his or her request a copy of the appropriate certification. The Court Administrator shall grant such requests at his or her discretion.

**(d) Certified Paralegal Professionals**

A paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs substantive legal work for which a lawyer is responsible.

- (1)** A paralegal eligible for security screening exemption must be certified by the Paralegal Certification Board of the Ohio State Bar Association, and will herein be known as a Certified Paralegal.
- (2)** In order to maintain their designation as a certified paralegal, the individual must follow all eligibility requirements of the Paralegal Certification Board including, but not limited to, maintaining all continuing legal and paralegal education requirements.
- (3)** A certified paralegal may be issued a paralegal identification badge which allows them to bypass security screening upon the completion of the following criteria:
  - (a)** Only certified paralegals who are employed by an active member of the Ohio Bar Association or supervising government agency, herein known as supervising attorney, will qualify for a paralegal identification badge;
  - (b)** It is the responsibility of the supervising attorney to provide a criminal background check of the certified paralegal to the Hamilton County Sheriff's Department prior to the issuance of the paralegal identification badge. Pursuant to the requirements of the Hamilton County Sheriff's Department, the criminal background must be completed at the local, state and federal level and must be renewed annually;
  - (c)** It is the responsibility of the supervising attorney to oversee the paralegal at all times and to take responsibility for the paralegal while he/she is using the paralegal identification badge;
  - (d)** It is the responsibility of the supervising attorney to retrieve the paralegal identification badge from the paralegal prior to the termination of the paralegal's employment, or upon the revocation of the paralegal certification from the Paralegal Certification Board of the OSBA, and to return the paralegal identification badge to the Hamilton County Sheriff immediately.

- (4) The Court Administrator, or designee, shall be the person who may authorize the Hamilton County Sheriff to issue the paralegal identification badge. Application for paralegal identification badges are available in Room 410 of the Hamilton County Courthouse between 8 a.m. and 4 p.m.
- (5) Applications must be completed and signed jointly by the certified paralegal and their supervising attorney.
- (6) Upon completion of the application, the Court Administrator, or designee, will verify that both the certified paralegal and the supervising attorney have met all prerequisites as stated in (C)(1)(d)(1); (C)(1)(d)(2); and (C)(1)(d)(3) (i-iv) above.
- (7) Thereafter, paralegals shall take their authorized application to Room 260 of the Hamilton County Courthouse where paralegal attorney identification badges are issued by the Hamilton County Sheriff between the hours of 8:00 a.m. and 3:30 p.m. upon payment a \$10.00 fee.
- (8) Paralegal identification badges are valid for one year from the date of issuance, unless revoked. Upon expiration, the application process and payment must be completed again to renew paralegal identification badge.
- (9) Paralegal identification badges may be revoked at any time by the Court Administrator or the Administrative and Presiding Judge of the Court of Common Pleas or Municipal Court. Expired paralegal identification badges may be confiscated by the court security officers and exemption from security screening will be immediately revoked until the badge is renewed.
- (10) Paralegals employed by the Hamilton County Prosecutors Office, and the Hamilton County Public Defender's office shall follow the same procedure for the issuance of a paralegal identification badge described here, but the \$10.00 fee shall be waived for those currently employed by either of those county offices.

#### **(D) Weapons and Explosives**

No weapons shall be permitted in the Courthouse except those carried by Hamilton County court security officers, Judges, Hamilton County Probation Officers or by law enforcement officers acting within the scope of their employment. Any court security officer, Probation Officer or law enforcement officer who is party to a judicial proceeding as a plaintiff, defendant, witness or interested party outside of the scope of their employment shall not bring weapons, including but not limited to their official firearm, within the Courthouse.

- (1) No person entering the Courthouse shall carry or possess explosives or items intended to be used to fabricate an explosive or incendiary device except for official business.

**(E) Possession and Use of Electronic Devices**

- (1) Subject to the restrictions and prohibitions set forth in this section, a person may bring an electronic device into the Courthouse and use the electronic device for the purpose of sending and receiving phone calls and electronic messages, and for other lawful purposes not otherwise prohibited by this Rule, but only in areas specifically designated through signage.
- (2) An electronic device includes a cell phone, computer and any other device that is capable of transmitting, receiving or recording messages, images, sounds, data or other information by electronic means or that, in appearance, purports to be a cell phone, computer or such other device; and a camera, regardless of whether images are recorded by using digital technology, film light-sensitive plates, or other means.
- (3) Electronic devices may only be used in courtrooms, jury rooms and judge' chambers when expressly allowed by the judge presiding in those areas, or in accordance with the procedures set forth in Local Rule 30 (Media Coverage of Court Proceedings). Unless otherwise permitted by this Rule or Local Rule 30, all electronic devices shall be turned off and put away.
- (4) Except when expressly permitted by a Hamilton County Judge under this Rule, or Local Rule 30, electronic devices shall not be used within any area of the Courthouse, including designated areas, to:
  - (a) Take or record a photograph, video or other visual image, or;
  - (b) Record, transmit or receive audio or sound.
- (5) Any person who violates this Rule may be subject to sanctions for contempt under Revised Code Chapter 2705, may be ejected from any area or the Courthouse, and any electronic device operated in violation of this Rule may be confiscated by court staff or court security officers. In no event shall the Court, any court employee or court security officer be liable for damages to any device confiscated or held in accordance with this Rule.

**Effective: (March 1, 2023)**

## RULE 34. Electronic Transmission Filings

### **(A) Internet Electronic Filings**

- (1) Except as provided in (A)(2) of this rule, in conformity with Ohio Revised Code's Civil Rule 5(E) and Criminal Rule 12(B), pleadings and other papers in all general civil cases assigned an "A" case number classification and criminal cases assigned a "B" number classification SHALL be filed with the Clerk of Courts electronically via the Internet. Pleadings and other papers in other civil cases may be filed with the Clerk of Courts electronically via the Internet.
- (2) Individuals who have been declared vexatious litigators, as defined below, will not be permitted to file documents electronically. The e-filing system will not provide an individual who has been declared a vexatious litigator with a user id and password to access the system. A vexatious litigator may only file in paper format, provided he/she has first obtained permission from the assigned Judge to file in that case. The Clerk's office will accept the filings from the vexatious litigators in paper format, as needed.

### **(B) Conditions**

All electronic filings shall be subject to the following conditions:

#### **(1) Definitions**

The following terms in this Rule shall be as follows:

##### **(a) Electronic Filing ("e-filing" or "efiling")**

The process of transmitting a digitized source document via the Internet to the Clerk's office for the purpose of filing the document and refers, as indicated by the context, to the means of transmission or to a document so transmitted.

**(b) Electronic Mail (e-mail or email)**

Messages sent by a user and received by another through an electronic service system utilizing the public internet.

**(c) Source Document**

The document created and maintained by the filer which is then electronically transmitted to the Court.

**(d) Original Document**

The transmitted copy of the source document received by the Clerk of Courts that becomes part of the court record and is maintained in the Court's file.

**(e) Date and Time of Filing**

The date and time the Clerk of Courts has received the entire transmission of the filing, unless rejected. (See filing acceptance below). The date and time of receipt will be indicated on the sender's computer screen after the document has been uploaded to the Clerk of Courts.

**(f) Electronic Signature**

An electronic sound, symbol or process that is attached to, or logically associated with, an electronic record and that is executed or adopted by a party with the intent to sign the electronic record. Or signature by an attorney or party indicated by the typewritten name of that person preceded by "s/".

**(g) Vexatious Litigators**

Individuals who have been declared vexatious litigators pursuant to Revised Code §2323.52.

**(h) Personal Identifiers**

Shall have the same meaning as provided in Sup. R. 44(H).

**(i) PDF/A**

An ISO-standardized version of the Portable Document Format (PDF) specialized for the long-term digital preservation of electronic documents.

**(2) Application of Rules and Orders**



Unless modified by approved stipulation or order of the Court of a judicial officer, all applicable Federal Rules of Civil and Criminal Procedure, Ohio Rules of Civil and Criminal Procedure and Local Rules, and orders of the Court shall continue to apply to documents electronically filed.

**(3) Filings**

- (a) Any document filed electronically that requires a filing fee may be rejected by the Clerk of Courts unless the filer has complied with this rule concerning the payment of filing fees.
- (b) Any document and/or court action that requires payment of a Filing Fee will be made by using a valid credit card through the Clerk's E-Filing System.
- (c) Any entry that must be signed by a judge of the Court for which a party is obligated to settle final court costs will be provisionally accepted for electronic filing. Upon payment of the final court costs, said entry will be forwarded to the judge for review and signature.
- (d) Any signature on electronically transmitted documents shall be considered that of the attorney or party it purports to be for all purposes. If it is established that the documents were transmitted without authority, the Court shall order the filing stricken.
- (e) All complaints and indictments in criminal cases shall comply with Ohio Criminal Rules 3, 6 and 7.
- (f) All documents containing notarizations shall be electronically filed only as a hand-signed scanned PDF document. The notary seal shall be visible.

**(4) Filings Not Accepted**

Any Civil Protection Order, Notary Public Commission or Notary Public Verification filing must be done in person.

**(5) Account Assignment**

The user shall be required to fill out the online registration with a valid email address, and electronically accept the User Agreement and the Credit Card Authorization. Upon receipt of the required information, the Clerk of Courts shall set up an electronic filer user account and assign a user-id and initial password to be use for electronically filing documents. The e-filer shall be notified of the new account information via email.

**(6) Hours of Operation**

Electronic filings may be submitted at any time. The electronically filed document will be considered filed as of the date and time that the Clerk of Courts receives the

entire transmission. All electronically filed documents shall receive a confirmation date and time acknowledgement. Time at the Court (Eastern Standard or Daylight) governs, rather than the time zone from which the filing is made.

**(7) Document Format**

Documents submitted must be in a digitized format specified by the Clerk of Courts as set forth in the online guide to electronic filing.

- (a) All electronically filed documents, pleadings and papers shall be filed with the Clerk in Portable Document Format (PDF) or the preferred PDF/A on 8 ½ x 11-inch pages.
- (b) Proposed Entries and Orders must be submitted in Microsoft Word (.doc or docx) format and reference the specific motion to which it applies.
- (c) Submissions shall be limited to twenty megabytes (20MB) in size per document. Larger sized documents shall be broken down and filed according to the directions maintained on the Clerk of Courts website e-filing page.

**(8) Personal and Private Information in Electronically Filed Court Documents**

**(a) Document Content**

All documents e-filed shall omit personal identifiers as defined in Sup. R. 44(H). The responsibility for redacting personal identifiers rests solely upon the filer. The Clerk and the Court will not review each document for compliance with this rule. When the personal information is omitted from a case filing it shall be submitted or filed separately on a form provided by the Clerk. See also Common Pleas Local Rule 11(K)(6)(a) and (b) for document content of personal identifiers on filings.

**(b) Sealed Cases and/or Sealed Documents**

In accordance with Rule 45 of the Rules of Superintendence for the Courts of Ohio, and Common Pleas Local Rule 11(K)(5) a document may be filed under seal or a filing may be made on a sealed case. E-filings on sealed cases must be clearly marked on the document below the title indicating that the case is sealed. A document to be sealed may be e-filed if there is a court order on the case docket that allows the document to be sealed. The Order and its date must be noted on the e-filing under the document title (e.g., “Document filed under seal pursuant to Court Order of mm/dd/yyyy”).

**(9) Fees**

Normal filing fees, case depositions, final court costs and any convivence fees will be collected via a valid user credit card at the time the filing and processed by the Clerk of Courts. Any document filed electronically that requires a fee may be rejected by the Clerk of Courts unless the filer complied with the mechanism established by the Court for the payment or waiver of filing fees.

**(10) Electric Filed Stamp**

Upon successful completion of acceptance processing by the Clerk of Courts a document filed electronically will be electronically file stamped. This stamp will include the date and time that the Clerk of Courts received the entire transmission as well as the confirmation number of the filing. Once the document is electronically file stamped and entered on the docket, it is considered a permanent part of the case record. A document electronically filed that is not successfully processed by the Clerk of Courts will not receive an electronically filed stamp but the filer will receive a rejection email. (See Filing Acceptance above.)

**(11) Service of E-filed Documents**

Service is not automatically done by using the e-filing system. The filer must make service on all parties as provided in the Civil or Criminal Rules of Procedure.

- (a) Civil complaints and summonses will be served by the Clerk in accordance with Civil Rule 4 through 4.6. The filer must serve all other e-filed documents in the manner provided in applicable civil or criminal rules. Each e-filed document transmitted to the Clerk of Courts that is required to be served must be accompanied by a completed certificate of service which shall state the date and manner of service and be signed as provided in this rule.
- (b) The filer may request that the Clerk serve an e-filing by the means provided in the operating procedures for e-filing on the Clerk of Courts website.

**(12) Disposition and Maintenance of Source Documents**

A document electronically filed shall be accepted as the original filing, consistent with Ohio Revised Code Civil Rule 5(E) and Criminal Rule 12(B) if the person filing electronically complies with all of the requirements set forth in this Local Rule. Filing is effectuated when the Clerk’s office file-stamps a document and docket it in a case. Documents filed with the Court shall be available for public access pursuant to Sup. R. 44 through 47. A document that has been sealed pursuant to a court order, administrative agency order, or board order, or is the subject of a motion to seal pending in the Supreme Court, shall remain under seal and not be made available for public access unless ordered by the Supreme Court. The electronic version of documents whether filed through e-filing, or received by the Clerk’s office in paper format and subsequently scanned into electronic format, constitutes the official record in the case. The person filing electronically need not file any original copy with the Clerk of Courts but must maintain the source document in his or her records, and have available for production on request by the Court, the Clerk of Courts or other counsel, the signed source document that was electronically filed until the case is closed.

**(13) Public Method of Access to Electronically Filed Public Documents**

Members of the public can obtain copies of or review electronically filed documents in the same manner as documents filed on paper. Public access to electronically filed public documents will be available via the Internet website of the Clerk of Courts as soon as the Clerk of Courts file-stamps a document and docket the document in a case. If Internet web site access is unavailable or is not provided by the Clerk of Courts, or if the Clerk of Courts is prohibited by the Court of by any law from making the document available via the Internet website, the document will be available at one or more offices of the Clerk of Courts, either by computer terminal or in paper form in the case jacket or on microfilm. However, if a document or case record is sealed or expunged it is unavailable for public disclosure.

**(14) User or Technical Errors**

Any e-filer whose filing is made untimely as the result of a technical failure of the Clerk of Court's system, or of the filer's computer hardware or software, phone lines or internet service provider (ISP), may move for leave to file instanter or for other appropriate relief from the Court. Such technical failures cannot extend jurisdictional deadlines. The motion shall be accompanied by an affidavit stating the circumstances of and reason for missing the deadline, and must be filed no later than noon of the first day on which the Clerk of Courts is open for business following the original filing deadline. The Court will consider the matters stated in the affidavit and order appropriate relief.

**(15) Operating Procedures and Instructions**

The Clerk of Courts is authorized to prepare and maintain operating procedures and instructions for electronic filing. These are available at the Clerk's website.

**Effective: (March 1, 2023)**

## RULE 35. Hamilton County Drug Treatment and Recovery Court

### **(A) General Provisions**

#### **(1) Mission Statement**

The mission of drug courts is to stop the abuse of alcohol and other drugs and related criminal activity. Drug courts promote recovery through a coordinated response to offenders' dependent on alcohol and other drugs. Realization of these goals require a team approach, including cooperation and collaboration of the judges, prosecutors, defense counsel, probation authorities, other correction personnel, law enforcement, pretrial services agencies, TASC (Treatment Alternatives to Street Crimes) programs, evaluators, an array of local service providers, and the greater community. State-level organizations representing AOD issues, law enforcement and criminal justice, vocational rehabilitation, education, and housing also have important roles to play. The combined energies of these individuals and organizations can assist and encourage defendants to accept help that could change their lives.

#### **(2) Science-based Principals**

The Hamilton County Common Pleas Drug Court adheres to science-based principals, only accepting those who are assessed as drug/alcohol dependent. Drug Court has graduated hundreds of individuals, returning them to their communities as sober citizens.

**(3) Nonadversarial Program.**

Drug courts are properly characterized as nonadversarial programs. They are not diversion programs. Participants waive their right to the usual court proceedings, such as questioning or disputing the legality of a search, seizure, or traffic stop; and/or having a preliminary hearing; speedy trial and a trial by jury or court. (HCDR Participant Handout). The principal distinction in Drug Courts is that advocacy occurs primarily in staffing as opposed to court hearings, reserving the greater share of court time for intervening with participants rather than arbitrating uncontested facts or legal issues

How Drug Court Teams make decisions in this nonadversarial climate has constitutional implications. Due process and judicial ethics require Drug Court judges to exercise independent discretion when resolving factual controversies, ordering conditions of treatment and supervision, and administering sanctions and incentives that affect participants' liberty interests.

**(4) Multidisciplinary Team**

The Drug Court team comprises representatives from all partner agencies involved in the creation of the program, including but not limited to a judge or judicial officer, program coordinator, prosecutor, defense counsel representative, treatment representative, community supervision officer, and law enforcement officer.

In drug court, the multidisciplinary team serves essentially as a panel of "expert witnesses" providing legal and scientific expertise for the judge. Team members contribute relevant insights, observations, and recommendations based on their professional knowledge, training, and experience. Team members continue to uphold their professional roles or responsibilities. Prosecutors continue to advocate on behalf of public safety, victim's interests, and participant accountability; defense counsel continue to advocate for participants' legal rights; and treatment providers continue to advocate for effective and humane treatment.

The judge considers the perspectives of all team members before making decisions that affect participants' welfare or liberty interests and explains the rationale for such decisions to team members and participants.

The Drug Court Judge makes the final decision regarding who participates in the Hamilton County Drug Court.

**(5) Compliance with Marcy's Law**

Drug Court complies with Marcy's Law. Marcy's Law ensures that victims of violent crimes have the same co-equal rights as the accused and convicted.

## **(B) Multi-track Capability**

Eligibility for admission into Drug Court includes four separate tracks set forth herein:

### **(1) Intervention in Lieu of Conviction (ILC)**

Ohio Revised Code Section 2951.041. An offender is eligible for admission into Drug Court and amenable to intervention in lieu of conviction if the court finds all of the following:

- (a) The offender previously has not been convicted of or pleaded guilty to any felony offense of violence within the prior 5 years.
- (b) The offense is not a felony of the first, or second, is not a felony sex offense, is not a violation of division (A)(1) or (2) of Aggravated Vehicular Homicide, 2903.06 of the Revised Code, is not a violation of division (A)(1) of Aggravated Vehicular Assault, 2903.08 of the Revised Code, is not a violation of division (A) of section 4511.19 of the Revised Code or a municipal ordinance that is substantially similar to that division, and is not an offense for which a sentencing court is required to impose a mandatory prison term.
- (c) The offender is not charged with a violation of Corrupting Another With Drugs, 2925.02, Illegal Manufacture of Drugs, 2925.04, or Illegal Administration or Distribution of Anabolic Steroids, 2925.06 of the Revised Code, is not charged with a violation of Trafficking, 2925.03 of the Revised Code that is a felony of the first or second degree, and is not charged with a violation of Possession of Controlled Substances, 2925.11 of the Revised Code that is a felony of the first or second degree.

### **(2) Non-ILC Tracks**

Notwithstanding the eligibility under the criteria set forth in the Intervention in Lieu of Conviction statute, the following factors shall not automatically exclude an offender from eligibility to Drug Court but will prevent the offender from the benefits of the ILC statute:

- (a) Prior convictions of a felony offense of violence
- (b) Prior convictions for trafficking
- (c) Other criminal history

### **(3) Felony Probation**

This track provides services for participants who have failed ILC and/or who have received felony probation without a treatment requirement. The purpose of this track is to be as inclusive and as representative as possible regarding case eligibility for Drug Court.

**(C) Eligibility Criteria for Drug Court Admission**

**(1) Target Population (vol. I, page 5)**

The drug court targets offenders for admission who are addicted to illicit drugs or alcohol and are at substantial risk for reoffending or failing to complete a less intensive disposition, such as standard probation or pretrial supervision. – commonly referred to as high-risk and high-need offenders. These are the offenders who are (1) addicted to or dependent on illicit drugs or alcohol and (2) at high risk for criminal recidivism or failure in less intensive rehabilitative dispositions.

**(2) Referral Process**

Cases are generally referred to HCDC automatically from Arraignment for F3, F4 and F5 Drug Charges and drug related offenses, (theft, receiving stolen property). Cases may also be referred to HCDC from other Judges or after the assigned Judge considers a request by the Probation Department, Defense Attorneys or an ~~and the~~ Assistant Prosecutor.

**(3) Assessment Process**

Candidates for Drug Court are assessed for eligibility using validated risk-assessment and clinical-assessment tools. A series of assessments/interviews start when an individual is referred to HCDC. These assessments will vary but generally include an interview with the Defense Attorney, an in-court Triage Assessment, a pre-sentence investigation (PSI) by Adult Probation and Urine Screens ordered by the Judge. If these assessments reveal a health danger, in-patient treatment may be ordered.

**(4) Criteria Preventing Participation in Drug Court**

The following criteria shall prevent an offender entry into Drug Court:

- (a) The current offense is a felony of the first or second degree;
- (b) Candidate has a past criminal history of violence within 5 years of current charge.

**Effective: (March 1, 2023)**



## RULE 36. Issuance of Warrant for Probation Violation

### **(Per Criminal Rule 4)**

In the event of a defendant's violation of the condition of community control:

- (A) Upon the receipt of information of a defendant having violated his/her Court ordered Community Control, an officer of the Adult Probation Department shall immediately investigate to determine if there is probable cause to believe the defendant has violated a condition of that Community Control. If the officer believes there is probable cause, through the authorities granted in Section 2951.08 of the Ohio Revised Code, the officer shall apply for issuance of a warrant for the defendant's arrest forthwith.
- (B) Upon such determination, the officer shall, without delay, complete a Complaint, Warrant and Probable Cause form, therein stating the basis for probable cause including a summary of the factual bases supporting probable cause. The completed forms shall be presented to a Probation Department Supervisor for review, approval and signature. Subsequent to gaining supervisory approval of the Probation Violation/Warrant/Probable Cause, the officer will present the documents to a notary, who shall cause the officer to swear that the information presented in the Complaint is true to the best of the officer's knowledge. The officer shall then sign the Complaint, the signature being subscribed by the notary.
- (C) The officer shall present the Complaint, Warrant and Probable Cause packet to a Common Pleas Judge for review and signature. Pursuant to gaining Judicial approval and signature, the officer will deliver the Complaint/Warrant/Probable Cause to the Clerk of Courts for processing. The probable cause form is entered into the Court Management System (CMS) database. The original

copy of the Complaint and the Warrant is retained by the Clerk of Courts for entry onto the Court's journal. A certified copy of the official Warrant and receipt is given to the officer.

- (D) The certified copy of the Warrant and receipt shall be taken forthwith by the probation officer to the Central Warrant Processing Unit of the Hamilton County Sheriff. The employee of the Central Warrant Processing Unit receiving the warrant shall sign a receipt acknowledging arrival of the warrant. The receipt document shall be placed in the defendant's file maintained by the Adult Probation Department. The pick-up radius for the warrant shall be nationwide unless the Court orders a smaller pick-up radius. The Central Warrants Processing Unit shall enter the warrant into the Hamilton County Regional Crime Information Center (R.C.I.C.) database, and all other databases required. Upon completing its registry of the warrant, the Central Warrants Processing Unit shall forward a copy to the Fugitive and Warrant Unit of the Hamilton County Sheriff.
- (E) As provided for in Section 2951.07 of the Ohio Revised Code, as of the date shown on the face of the warrant, the term of community control shall cease to run until further order of the Court.
- (F) Should facts arise to cause recall of the warrant, such information shall be presented to the Court as a Motion to Recall Warrant. Upon the Court granting such Motion, an Entry Recalling Warrant shall be journalized of record forthwith and taken immediately to the Central Warrants Processing Unit, who shall cause a return on the warrant to occur forthwith.

**Effective: (March 1, 2023)**

## RULE 37. Civil Protection Order

The Assignment Commissioner shall assign all cases filed under Ohio Revised Code 2903.214 to the Judge sitting in equity on the date of the filing of the petition. All hearings under Ohio Revised Code 2903.214 and all matters arising from Ohio Revised Code 2903.214 are referred to the Common Pleas Magistrate.

**Effective: (March 1, 2023)**

## RULE 38. Court Record Retention

Hamilton County Common Pleas Court hereby adopts Ohio Supreme Court Sup. R. 26 in its entirety.

**Effective: (March 1, 2023)**

## RULE 39. Return of Inmates for Forfeiture Proceedings

- (A) In all actions involving the statutory forfeiture of United States currency, real property or personal property, every person or persons from whom the property was seized, or who otherwise states a claim for the property, shall have the right to be present at any hearing in respect of such forfeiture either electronically or in person. In the event such person or persons are incarcerated in an Ohio Correctional Facility, the Judge or Magistrate before whom the matter is pending shall order the return of the incarcerated person(s) for the hearing. No forfeiture shall be held in that person's absence unless that person waives the right to attend, or when the case is proceeding under Ohio Revised Code 2981.05(A).
- (B) The cost of transporting and housing of persons returned to Hamilton County pursuant to division (A) of this rule shall be calculated by the Sheriff and certified to the Court. The Court shall order said costs to be paid to the Sheriff from the proceeds of any United States currency, real property or personal property forfeited. Those costs shall be paid before any proceeds are distributed to the law enforcement agency or agencies.

**Effective: (March 1, 2023)**

RULE 40. [RESERVED]

**Effective: (March 1, 2023)**

## RULE 41. Appointment of Special Prosecutor

From time to time the Hamilton County Prosecutor is faced with a situation that prevents the Hamilton County Prosecutor's Office from handling a criminal case. The following must take place before a special prosecutor can be appointed.

- (A) The Hamilton County Prosecutor must make application, in writing, to the Presiding Judge of the Common Pleas Court that a special prosecutor is needed;
- (B) If such application is made, the Hamilton County Prosecutor shall endeavor to propose someone who will handle the case for no fee;
- (C) If a special prosecutor needs to be appointed and paid, the rate of pay shall be set at a reasonable rate. Any charges for expenses shall be made separately. Invoices shall be presented to the Court Administrator for review prior to submitting to the judge. Payment shall be made by the County Treasurer in accordance with Revised Code 2941.63;
- (D) The special prosecutor shall endeavor to bring the case to indictment or if there is insufficient evidence to indict, make such a determination within sixty (60) days from the date of appointment;
- (E) The special prosecutor shall, to the extent possible, utilize already existing government resources in the investigation and prosecution of the alleged criminal conduct as opposed to expending public funds for independent contractors;

- (F) For all matters relating to the appointment of a special prosecutor, the fees to be paid the special prosecutor as well as any pre-indictment legal rulings, shall be made by the Presiding Judge of the Court of Common Pleas. That judge shall continue to decide these matters even after he or she is not Presiding Judge. The Presiding Judge may, by entry, designate another Common Pleas Judge to handle pre-indictment matters involving a special prosecutor and, if this is done, by entry, that judge shall handle the matter with all the duties of the Presiding Judge including the payment of fees;
- (G) The Presiding Judge or the designee performing the duties set forth in the preceding paragraph shall not be eligible to be the trial judge in the case or cases arising out of the activities of the special prosecutor. The Presiding Judge or his designee's ability to render legal rulings in the case shall end upon indictment, individual assignment of the case to a judge or, if there is no indictment, upon the termination of the appointment of the special prosecutor.

**Effective: (March 1, 2023)**

## RULE 42. DNA Testing

Post-conviction DNA testing is governed by Ohio Revised Code 2953.71 – 2953.83

Upon the motion of either party to a civil or criminal case or upon the Court's own motion, a judge may, at his or her own discretion, order a DNA test. The costs of such a test shall be borne by the party requesting the test except for indigent parties in which case the judge may tac the costs to the court costs of the case. When a judge orders a DNA test on the Court's own motion, the costs of the test shall be taxed as court costs. The test in a criminal case shall be done by the Hamilton County Coroner unless otherwise directed by the Court. The person or company performing the DNA test shall deliver a written report of the results to the judge and to the parties.

This rule shall only apply to the General Division of the Common Pleas Court.

**Effective: (March 1, 2023)**

RULE 43. [RESERVED]

**Effective: (March 1, 2023)**



## RULE 44. Search Warrants

- (A) Applications for search warrants shall be submitted to the Equity/Criminal Presiding Judge or, if that judge is unavailable, to the Presiding Judge of the Court. If neither of those judges is available, the application may be submitted to any other judge of the General Division of the Court.
- (B) A request to seal the affidavit, warrant and/or return must be made to the issuing judge at the time the application is presented for review by the Court. The judge shall authorize sealing at the time the warrant is signed if the judge determines that sealing is appropriate.
- (C) A request to unseal a warrant and accompanying document(s) shall be made by motion to the issuing judge. After written notification to the appropriate prosecuting attorney and/or defense attorney, which shall be made not later than three days after the request is received by the issuing judge, a hearing shall be held not sooner than seven (7) days nor later than fourteen (14) days from the date the request was received by the issuing judge, unless otherwise ordered by the Court. The Court, in making its decision on the request, shall consider all relevant information as well as the provisions of Revised Code 149.43. This remedy is separate from any discovery remedy available to the defendant under the criminal rules.

**Effective: (March 1, 2023)**

## RULE 45. Foreclosures

### **(A) Pleading**

In every action demanding the judicial sale of real estate, the party or parties seeking such judicial sale shall attach legible copies of the following documents to the initial pleading:

- (1) The Note and recorded mortgage drafter pursuant to Chapter 5301.; or
- (2) The recorded Affidavit for Mechanic's Lien pursuant to Revised Code § 1311.06; or
- (3) The file-stamped copy of the Certificate of Judgment filed pursuant to Revised Code § 2329.02 or Authenticated Foreign Judgment and Affidavit filed pursuant to Revised Code §§ 2329.022 and 2329.023; or
- (4) Any other written instrument upon which the party relies as the basis for a judicial sale.

If the plaintiff is not the payee of the Note or the original mortgagee, then the assignment of mortgage bearing the plaintiff's name shall also be attached to the complaint. If the documents are not attached, the reason for the omission must be stated in the pleading.

### **(B) Receiverships**

- (1) The following procedure shall be applied upon the filing of a motion for the appointment of a receiver in a foreclosure case with the Clerk of Courts:

- (a) The party seeking the appointment shall schedule a hearing before the Common Pleas Magistrate;
- (b) Unless the mortgage provides for appointment of a receiver without notice, notice of the hearing shall be served on interested parties either by attachment to the complaint and original summons, or by certified mail in accordance with the Ohio Rules of Civil Procedure;
- (c) Notice, if required, shall be served on the owner of the property three (3) days before the hearing; and
- (d) The Court may continue hearings from time to time upon the showing of good cause.

**(2) Appointment of Receivers – Prerequisites:**

Before any receiver is appointed in a foreclosure case, the following must be demonstrated by affidavit, evidence or representation of counsel

- (a) That legal or equitable ground exist necessitating the appointment of a receiver; and
- (b) That the mortgaged property is in danger of being lost, removed or materially injured, or that the condition of the mortgage has not been performed, and the property is probably insufficient to discharge the mortgage debt, or on grounds other than those prescribed herein.

**(3) Oath and Beyond**

Upon appointment, a receiver shall qualify and give a bond in the amount required by the Court. Bond shall generally be a nominal sum in the amount of \$100.00, when the property is vacant and it is anticipated in the motion and order that the receiver’s duty will be that of caretaker. Bond shall generally be in a sum equal to the sum of monthly rents or accounts receivable, where there are rents and profits to be collected. If the receiver fails to qualify and give bond, the appointment is voidable.

**(4) Duties of Receivers:**

- (a) All receivers shall take charge of property pending litigation, preserve property from waste or destruction, receive rents and profits, hold income subject to order of the Court, and have authority to sue in forcible entry in the receiver’s name and capacity.
- (b) Within ninety (90) days of the date of their appointment and every ninety (90) days thereafter, receivers shall file a report of receipts and disbursements with the Clerk of Courts.
- (c) Absent wording in the original Order, no receiver shall diminish the financial resources of the receivership through expenditure for repairs, real estate taxes

and assessments, gas, light and water bills, trash pick-up and insurance, without first procuring an order from the Court for that purpose, except that necessary outlays under \$200.00 which may be made without the order, subject, however, to the final approval of the Court in the receiver's account.

- (d) A Final Receiver Report shall be filed with the Court within sixty (60) days after the filing of the Order Distributing Proceeds. The Final Receiver Report shall indicate that no funds remain in the receiver's account and that all outstanding bills have been paid. The receiver shall not be dismissed until the Final Receiver's Report is approved by the Court as filed.

### **(C) Case Management**

Any party, or counsel thereof, with an active claim with a cause of action for judicial sale of real property must be present at all case management conferences. No telephonic appearances are authorized except through written leave of the Common Pleas Magistrate of Judge.

### **(D) Bankruptcy**

Where a defendant has filed bankruptcy, the defendant, or plaintiff upon notification from the defendant, shall file a "Notice of Bankruptcy and Suggestion of Stay" and send a file-stamped copy of the Notice to the Common Pleas Magistrate as soon as practicable. Upon the receipt of the Notice, no further court settings will be scheduled and no further documents shall be filed with the Clerk of Courts regarding the bankruptcy party until plaintiff or other party seeking judgment moves for, and is granted, an order to reinstate the case to the active docket. **NOTHING IN THIS RULE SHALL PREVENT A PARTY FROM COMPLYING WITH FEDERAL BANKRUPTCY LAW.**

### **(E) Judgment**

#### **(1) Default**

- (a) All motions for default shall list each defendant and the date service was perfected thereon.
- (b) A party seeking default Judgment shall file an "Affidavit of Account". The affiant shall be the party seeking Judgment or an employee of the plaintiff familiar with the mortgagor's account. All relevant information required pursuant to 50 App. U.S.C. § 521 (b)(1) [Service members Civil Relief Act] may be included within the Affidavit of Account, or by separate affidavit. The

amount claimed due and owing in the Affidavit of Account must match the amount listed on the proposed Judgment and Decree in Foreclosure.

- (c) Pursuant to Civil Rule 55 (A) and Local Rule 13 (A), parties seeking default judgment shall deliver to the Common Pleas Magistrate a file-stamped copy of the Motion for Default, file-stamped copies of all relevant affidavits and the proposed Judgment and Decree in Foreclosure. The moving party shall also include a file-stamped copy of the Final Judicial Report or commitment. Where a party otherwise in default has made an appearance, the moving party shall contact the Common Pleas Magistrate to schedule a hearing on the Motion for Default and notify all appearing defendants. The hearing shall be set at least seven (7) days after notice is sent to the appearing party.
- (d) Where a junior lienholder seeks default judgment on its claim, all lienholders who claim an interest senior to that of the party seeking Judgment shall file an Affidavit of Account attesting to the outstanding balance due and owing. This requirement shall not apply if the Court has previously awarded a decree of foreclosure to the lienholder claiming the senior interest, or the attorney for the senior lienholder signs the proposed entry.

## **(2) Summary Judgment**

- (a) Where a junior lienholder seeks summary judgment on its claim, all lienholders who claim an interest senior to that of the party seeking Judgment shall file an Affidavit of Account attesting to the outstanding balance due and owing. This requirement shall not apply if the Court has previously awarded a decree of foreclosure to the lienholder claiming the senior interest, or the attorney for the senior lienholder signs the proposed Magistrate's Decision.
- (b) If one or more of the defendants have failed to timely answer and the plaintiff has filed motions for default, the moving party may include the defaulting parties in the Entry Adopting the Magistrate's Decision granting summary judgment.
- (c) The moving party shall attach a file-stamped copy of the Final Judicial Report or commitment with the Entry Adopting the Magistrate's Decision granting summary Judgment.

## **(F) Judicial Sale**

- (1) Parties seeking an Order of Sale shall complete the "Praecipe for Order (Sale of Possession)" located at [www.courtclerk.org/cp\\_civil\\_forms.asp](http://www.courtclerk.org/cp_civil_forms.asp). Parties seeking an Order of Sale and interested buyers shall also complete a "Purchaser Information Sheet" located at [www.courtclerk.org/cp\\_civil\\_forms.asp](http://www.courtclerk.org/cp_civil_forms.asp). Parties may generate and utilize alternative "Praecipe for Order – Sale" and "Purchaser Information Sheet" forms, so long as information contained on the alternative forms is identical to that contained on the published forms.
- (2) *Terms of sale.* Purchasers at judicial sale must present a cashier's check to the execution officer equal to 10% of the appraised value of the real property ("the deposit"). The

balance of the sale price, payable by cashier's check, shall be due within thirty (30) days of the Confirmation of Sale. Failure to timely pay the balance of the sale price may result in the forfeiture of the deposit.

- (3) Because Revised Code 323.11 and 5721.10 provide that the lien of the state for real estate taxes is the first lien on the subject property and continues until paid, neither the Hamilton County Treasurer nor the Hamilton County Auditor shall be joined as a party to any such action unless the party requesting the judicial sale intends to contest either the amount of, or the priority of, the charges against each of the subject real estate parcels as shown on the general tax list prepared and certified by the Hamilton County Auditor. Any such claim shall be pled as a separate claim for relief and shall join only the Hamilton County Treasurer as the party responsible for collection of taxes.
- (4) If either the Hamilton County Treasurer or the Hamilton County Auditor, or both, are joined as a party on violation of this rule, neither shall be required to file an Answer, or otherwise plead in the action and the Court shall proceed to adjudicate the matter as though neither the Treasurer or Auditor had been joined. The Auditor and Treasurer will also not be required to attend any hearings unless specifically directed to do so by the Court with notice to the Prosecutor's office.
- (5) For any judicially ordered sale, the party responsible for the sale shall make certain the real property taxes are paid from the proceeds of the sale. No entry distributing proceeds shall be accepted by the Clerk of Courts which does not provide for payment to the Hamilton County Treasurer of all required real estate taxes. The party responsible for the preparation of the entries shall obtain written verification of the amount due to the Confirmation and Distribution Entries.

#### **(G) Confirmation of Sale, Ordering Deed and Distribution of Proceeds**

- (1) The Entry Confirming Sale and Ordering Deed shall be proffered to the Common Pleas Magistrate within thirty (30) days of the writ of execution indicating the sale was made, in all respects, in conformity with sections 2329.01 to 2329.61 of the Revised Code. The attorney who filed the writ of execution shall make to the purchaser a deed for the land and tenements and deliver said deed to the Sheriff's office within seven (7) days following the journalization of the Entry Confirming Sale and Ordering Deed.
- (2) An Order Distributing Proceeds shall not be proffered to the Common Pleas Magistrate until the full purchase price and fees have been received by the Sheriff's Office. The Order Distributing Proceeds shall state whether the distribution is in full or partial satisfaction of the judgment. If the foreclosing party seeks a distribution pursuant to Revised Code § 5301.233 or in equity for funds in excess of court costs, unpaid property taxes, or the amount equal to the unpaid principal, accrued interest and late fees, then the attorney of record for the foreclosing party shall prepare and file a Confirmation Worksheet which shall indicate how much additional distribution is requested. Documentation sufficient to support the additional distribution shall be attached to the Confirmation Worksheet. A blank Confirmation Worksheet is available at [www.courtclerk.org/cp\\_civil\\_forms.asp](http://www.courtclerk.org/cp_civil_forms.asp).

- (3) A clause allowing a mortgagee to collect reasonable attorney fees in a Note backing a commercial transaction is enforceable only if the total amount owed on the Note at the time the Note was executed exceeds \$100,000.00. Attorney's fees for cases involving a foreclosure of residential property are collectable only where the Note backs a commercial transaction and contains a provision allowing said fees. Reasonable attorney fees incurred by a unit owners' association in a foreclosure action against the defaulting unit owner for unpaid common assessments are enforceable if such a provision is contained within a declaration of condominium ownership and/or condominium by-laws.
- (4) No Writ of Possession shall issue until all sale proceeds and fees have been paid. A Writ of Possession may issue pursuant to Revised Code §§ 2327.02 (C) and 5303.15 against any named occupant of real property if a judgment against said occupant has been obtained. The Sheriff shall return the Writ unexecuted when he/she determines that the occupant is other than a named party.

#### **(H) Distribution of Excess Funds**

Any defendant claiming an interest in any excess funds from a judicial sale must file a motion requesting a supplemental distribution. Such motion must set forth the reasons why the movant is entitled to the claimed funds. The movant shall schedule a hearing on the motion with the Common Pleas Magistrate and serve the plaintiff and all other parties not in default a copy of the motion and a notice of hearing.

**Effective: (March 1, 2023)**

## RULE 46. Certificate of Qualification for Employment

- (A) To request a Certificate for Qualification of Employment (CQE), the petition must be made on the form prescribed by the Department of Rehabilitation and Corrections (DRC). The petition and instructions regarding how to complete and submit the petition electronically are accessible on the DRC website. All petitions must be completed electronically online. The petitioner shall provide the DRC electronic petition number and attach a printed copy of the fully completed electronic petition submitted through the DRC to the Clerk of Courts.
- (B) All petitions submitted through the DRC shall be accompanied by the Department of Rehabilitation and Corrections CQE Summary if applicable.
- (C) Before the petition is accepted and before any action is required to be taken on the petition, the petitioner may pay a deposit in the amount of \$150.00. The Court may waive some or all of the deposit required by this rule. If requesting a reduction in the deposit, the petitioner must submit an Affidavit of Indigency (available through the Clerk of Courts) and possibly other relevant information for the Court's consideration.

- (D) All social security numbers and other information that must be excluded from public record shall be redacted by the party submitting the document in accordance with the rules of this Court and the Rules of Superintendence. Records or information received by a Court to assist the Court with making its decision under Section 2953.25 of the Revised Code, including information included on a petition, shall retain their character as public or non-public records, as otherwise provided in law.
- (E) Upon receipt of a fully completed electronic petition submitted through the DRC and the required deposit, the Clerk of Courts shall assign the petition a CQ case number, treat the case as a miscellaneous civil case and the case shall be randomly assigned to a trial judge. Unless otherwise ordered by a particular judge, all CQ cases, shall be referred to a magistrate by general order of reference.
- (F) The Court shall obtain a criminal history for the petitioner through an investigation conducted by the Probation Department. Through the Probation Department's investigation, the Court shall attempt to determine all other Courts in the state in which the petitioner has been convicted or plead guilty to an offense. The Clerk of Courts shall send a Notice Regarding Petition for Certificate of Qualification for Employment to each Court so identified. Such Notice shall be sent via ordinary US mail.
- (G) The Clerk of Courts shall also issue notice regarding the Petition for Certificate of Qualification for Employment and Response to Request for Information Regarding Petition for Certificate of Qualification for Employment to the Hamilton County Prosecuting Attorney.
- (H) The magistrate of judge may order any report or investigation concerning the petitioner, or disclosure by the petitioner that they believe is necessary to reach a decision through an order for investigation and/or an order for additional information.
- (I) Once all information requested has been received, the magistrate or judge shall decide whether to grant or deny the petition within sixty (60) days, unless petitioner requests and is granted an extension of time. Judgment
- (J) The Clerk of Courts shall send to petitioner a copy of the Judgment entry. The Clerk shall also notify the DRC of the disposition of the petition as required under the Administrative Rules, and if granted, the Clerk shall notify the DRC of the order to issue the CQE to petitioner.

**Effective: (March 1, 2023)**



## RULE 47. Specialized Dockets

The purpose of this Local Rule is to define the specific Local Rule requirements and procedures relate to Specialized Dockets. Specialized Dockets offer a therapeutically oriented judicial approach to providing Court supervision and appropriate treatment to individuals.

### **(A) Mental Health Court Docket**

#### **(1) Establishment of Mental Health Court Docket**

Recognizing that offenders with severe mental health illness pose a special challenge within the criminal justice system, the Court has created a Mental Health Docket in accordance with the requirements set forth in Rules 36.20 through 36.29 of the Rules of Superintendence for the Courts of Ohio. The Mental Health Court Docket was created with the intent of protecting the community by reducing the recidivism of these offenders by improving and expediting the delivery of services through intense supervision and treatment.

## **(2) Placement of the Mental Health Court Docket**

A referral may be initiated by a judge, pre-trial services, defense attorney, prosecuting attorney or probation officer. The formal referral process initiates upon a “Mental Health Docket Assessment Order” (“MHDA Order”) issued by a Hamilton County Common Pleas Court Judge. The MHDA Order states that the Mental Health Program Coordinator will screen the defendant. The Program Coordinator will then determine if the Court Clinic needs to complete a clinical assessment of the defendant for their suitability for the Mental Health Court Docket. The MHDA Order shall provide at least thirty (30) days for assessment to be complete.

## **(3) Eligibility**

The legal and clinical eligibility criteria described below do not create a right to enter the specialized docket, but rather, provide guidelines. Eligibility is at the discretion of the assigned Mental Health Docket Judge.

### **(a) Legal Eligibility**

#### **(1) Third, fourth- and fifth-degree felony level offenses**

are preliminarily eligible. Second degree felony offenses are reviewed on a case-by-case basis. The Mental Health Court judges have final discretion on a defendant’s acceptance to the docket with input from the prosecutor’s office and treatment team.

#### **(2) A case may be accepted at multiple stages of the proceedings including; Pre-Plea, Post-Conviction or Violation of Probation.**

#### **(3) Participants are required to plead guilty.**

#### **(4) Participants, if eligible, may complete the program as an Intervention in Lieu of Conviction.**

#### **(5) Any history of serious or repetitive violence will be reviewed by the Mental Health Court Prosecutor and Mental Health Court Team.**

#### **(6) Exclusions: NGRI, Incompetent to Stand Trial, significant history of violent offenses, persistent offending that is not mental health driven. All prospective participants are reviewed on a case-by-case basis.**

#### **(7) Participant must be a resident of Hamilton County, both currently and at the time of the offense.**

### **(b) Clinical Eligibility**

- (1) Diagnosis of Schizophrenia; Schizoaffective Disorder; Bipolar Disorder; or Major Depressive Disorder, Recurrent.
- (2) Must also be appropriate for intensive case management services and treatment. This means that an individual may have a “qualifying diagnosis” but not be appropriate for the program’s treatment services.
- (3) Must have cognitive ability to understand and voluntarily participate in a mental health service plan.

**(4) Case Assignment in Multi-Judge Court**

If the referred defendant is found eligible, the Program Coordinator shall be responsible for attending the “Report” date in front of the referring judge. The Program Coordinator shall consult with the attorney, defendant and referring Judge to confirm the decision to transfer the case to the Mental Health Docket. The referring judge shall sign an “Entry Directing Transfer of Case to the Mental Health Docket” and the Program Coordinator shall be responsible for filing the Entry and setting a date on the Mental Health Docket. The transferred case shall be randomly assigned to one of the three general division Common Pleas judges designated to hear the Mental Health Docket. The Program Coordinator shall provide the defendant with a date to report to the appropriate Mental Health Docket Judge. Should a defendant subsequently decide not to participate before they have entered a plea or signed the participation agreement the case shall remain on the regular docket of the assigned Mental Health Docket Judge.

**(5) Mental Health Docket Case Management**

Upon admission to the Mental Health Docket, each participant shall be registered for services through the primary case management agency. An initial treatment plan shall be created by the primary case management agency, Court Clinic Mental Health Assessment recommendations, and the participant. Services, including mental health treatment, medication, psychiatric consultation, substance abuse and community support services shall be promptly available upon admission to the Mental Health Court Docket. The policies regarding treatment planning, provided services, treatment compliance, program rules and program admission, are contained in the Mental Health Court Program Description, Handbook, and Participation Agreement, and incorporated herein by reference.

**(6) Termination from Mental Health Docket**

There are two types of termination classification used by the Mental Health Court: unsuccessful discharge and neutral discharge. The judge has discretion to decide termination from the Mental Health Docket in accordance with the written criteria. The treatment team shall advise the judge on matters of termination.

**(a) Unsuccessful Discharge**

- (1) Criteria:

- (a) Ongoing compliance with treatment or resistance to treatment plan.
- (b) New serious criminal conviction.
- (c) A serious probation violation or series of probation violations.
- (d) A serious infraction of the Mental Health Court participant contract.

**(2) Result of Unsuccessful Discharge:**

- (a) Further legal action, including revocation of Intervention in Lieu of Conviction, motion for probable cause or probation violation.
- (b) Depending on the circumstances, the participant may be subject to jail, prison or other penalties.
- (c) Should the defendant remain on probation, the defendant shall be transferred to the regular criminal docket of the Mental Health Court Judge, assigned a probation officer and continued under the terms of probation.
- (d) An unsuccessful discharge from the Mental Health Court program shall not mean a discharge from appropriate mental health, substance abuse or other programming available to a qualified defendant.

**(b) Neutral Discharge**

**(1) Criteria:**

- (a) A serious mental condition resulting in inability to participate in program requirements.
- (b) Serious mental health condition resulting in inability to participate in program requirements.
- (c) Death.

- (d) Choice to voluntarily withdrawal from the program prior to completion of a plea and signing of the Mental Health Court Participation Agreement.
- (e) Other factors that may keep the participation from meeting the requirements for successful completion.

**(2) Result of Neutral Discharge:**

- (a) Defendant is returned to the regular criminal docket of the Mental Health Court Judge for regular case proceedings.
- (b) Defendant shall have the right to request new representation other than the representation of the assigned Mental Health Court Defense Attorney.
- (c) A prior neutral discharge from the Mental Health Court Docket will be considered by the Treatment Team and the Mental Health Court Docket Judge in considering admission. Discretion to admit a defendant with a prior neutral discharge is within the discretion of the assigned Mental Health Docket Judge.

**(B) Veterans' Treatment Court Docket**

**(1) Establishment of Veterans' Treatment Court Docket**

Recognizing that United States Veteran offenders with mental illness, substance abuse and/or trauma related injuries pose a special challenge within the criminal justice system, the Court has created a Veterans' Treatment Docket, in accordance with the requirements set forth in Sup. R. 36.20 through 36.29, with the intent of protecting the community by reducing the recidivism of these offenders by improving and expediting the delivery of services through intense supervision and treatment.

**(2) Placement on the Veterans' Treatment Court Docket**

Referrals may be made formally and informally from many sources, including: judges, attorneys, prosecutors, case managers, self-referral, police officers, pre-trial services, probation officers, jail staff and others. An informal referral may consist of a phone call or discussion with any member of the Veterans' Treatment Court Team. The Team shall pass along referral information to the Program Coordinator from all sources.

The formal referral process initiates upon a request from a Hamilton County Common Pleas Court Judge for a Veterans' Treatment Court Assessment. The referral states that the Veterans' Treatment Court Team shall complete an assessment of a defendant for

their suitability for the Program. The request shall provide at least thirty (30) days for the assessment to be complete.

The legal and clinical eligibility criteria described below do not create a right to enter the specialized docket, but rather, provide guidelines. Eligibility is at the discretion of the Veterans' Treatment Court Judge.

### **(3) Eligibility**

#### **(a) Legal Eligibility**

- (1)** Third, fourth- and fifth-degree felony offenses are preliminarily eligible. Second-degree felony offenses are reviewed on a case by case basis. The Veterans' Court Judge has final discretion on a defendant's acceptance to the docket with input from the prosecutor's office and treatment team.
- (2)** A case may be accepted at multiple stages of the proceedings including: Pre-Plea, Post-Conviction or Violation of Probation.
- (3)** Participants are required to plead guilty.
- (4)** Participants, if eligible, may complete the program as an Intervention in Lieu of Conviction. If the participant is not eligible for Intervention in Lieu of Conviction, they shall complete the program on a standard community control.
- (5)** Any history of serious or repetitive violence will be scrutinized by the Veterans' Treatment Court Prosecutor and the Veterans' Treatment Court Team.
- (6)** Exclusions: NGRI, Incompetent to Stand Trial, significant history of violent offenses, persistent offending that is not mental health driven. All prospective participants are reviewed on a case by case basis.
- (7)** Participants must be a United States Veteran.

#### **(b) Clinical Eligibility**

- (1)** Preference is given to individuals with a demonstrated trauma related injury such as Post Traumatic Stress Disorder or Traumatic Brain Injury.
- (2)** Must have need for intensive treatment related to trauma, substance use and/or mental illness.

- (3) Must have cognitive ability to understand and voluntarily participate in Veterans' Treatment Court.

**(4) Veterans' Treatment Docket Case Management**

Upon admission to the Veterans' Treatment Docket, each participant shall be registered for services through the primary case management agency, the VA Veterans Justice Outreach Program. An initial treatment plan shall be created by the primary case management agency and the participant. Services, including mental health treatment, medication, psychiatric consultation, substance abuse and community support services shall be available upon admission to the Veterans' Treatment Court Docket. The policies regarding treatment planning, provided services, treatment compliance, program rules and program admission, are contained in the Veterans' Treatment Court Program Description, Handbook, and Participation Agreement, and incorporated herein by reference. Should a defendant subsequently decide not to participate, or unsuccessfully terminates the program, the case shall remain on the regular docket of the Veterans' Treatment Court Judge.

**(5) Termination from Veterans' Treatment Docket**

There are two types of termination classification used by the Veterans' Treatment Court, unsuccessful discharge and neutral discharge. The judge has final discretion on decisions concerning termination and classification of termination. The treatment team shall advise the judge on these decisions.

**(a) Unsuccessful Discharge**

**(1) Criteria**

- (a) Ongoing noncompliance with treatment or resistance to treatment plan.
- (b) New serious criminal conviction.
- (c) A serious probation violation or series of probation violations.
- (d) A serious infraction of the Veterans' Treatment Court participation agreement.

**(2) Result of Unsuccessful Discharge:**

- (a) Loss of future eligibility for the Veterans' Treatment Court Docket.
- (b) Further legal action, including revocation of Intervention in Lieu of Conviction, motion for probably cause or probation violation.
- (c) Depending on the circumstances, the participant may be subject to jail, prison or other penalties.
- (d) Should the defendant remain on probation, the defendant shall be transferred to the regular criminal docket of the Veterans' Treatment Court Judge, assigned a probation officer and continued under the terms of probation.
- (e) An unsuccessful discharge from the Veterans' Treatment Court Docket shall not mean a discharge from appropriate mental health, substance abuse or other programming available to a qualified defendant. Discharge shall have no effect on access to VA services.

**(b) Neutral Discharge**

**(1) Criteria:**

- (a) A serious medical condition resulting in inability to participate in program requirements.
- (b) Serious mental health condition resulting in inability to participate in program requirements.
- (c) Death
- (d) Choice to voluntarily withdraw from the program prior to completion of a plea and signing of the Veterans' Treatment Court Participation Agreement.
- (e) Other factors that may keep the participant from meeting the requirements for successful completion.

**(2) Result of Neutral Discharge:**



- (a) Defendant is returned to the regular criminal docket of the Veterans' Treatment Court Judge for regular case processing.
- (b) Defendant shall have the right to request new representation other than the representation of the assigned Veterans' Treatment Court Defense Attorney.
- (c) Admission of a defendant with prior neutral discharge from the Veterans' Treatment Court Docket will be considered by the Treatment Team and the Veterans' Treatment Court Judge. Discretion to admit a defendant with a prior neutral discharge is within the discretion of the assigned Veterans' Treatment Court Judge.

### **(C) Re-Entry Court Docket**

#### **(1) Establishing of Re-Entry Court Docket**

Recognizing that non-violent offender with 24 months or less left on their sentence pose a special challenge within the criminal justice system, the Court has created a Re-Entry Docket in accordance with the requirements set forth in Rules 36.20 through 36.29 of the Rules of Superintendence for the Courts of Ohio. The Re-Entry Docket was created with the intent of protecting the community by reducing the recidivism of these offenders by improving and expediting the delivery of services through intensive supervision and treatment.

#### **(2) Placement on the Re-Entry Court Docket**

Defendants may complete an application and submit it to the Re-Entry Docket Judge, Alternatively, if the sentencing judge wishes to transfer a motion for judicial release to the Re-Entry Docket, the transferring Court must first correspond with the Re-Entry Docket Specialist to determine if the defendant meets basic eligibility criteria. If applicant meets criteria, a Re-Entry Court docket application will be sent to the defendant by the Re-Entry Docket team, which includes the Re-Entry Docket Judge, Specialist, Probation Officer and Officer of Re-Entry staff. The request shall provide at least 30 days for application to be reviewed. If deemed eligible, applicant will be assigned an attorney to complete a motion for judicial release, if this has not already been done, and a judicial release hearing will be scheduled.

The Re-Entry Docket Judge will review each application and motion for consideration of defendant's suitability for participation and, if warranted, grant acceptance into the Court and notify the Sentencing Judge. The Sentencing Judge retains the discretion to determine whether or not to transfer the defendant's case to the Re-Entry Docket. Upon consent, the Sentencing Judge will request the Administrative Judge to reassign the case to the Re-Entry Docket Judge. Upon reassignment, the Re-Entry Docket Judge will

assume all supervision of the defendant on judicial release and receive any felony case(s) against the defendant during such supervision.

The legal eligibility criteria described below do not create a right to enter the specialized docket, but rather, provide guidelines. Eligibility is at the discretion of the Re-Entry Docket Judge.

**(3) Eligibility**

- (a) Offender must be statutorily eligible for Judicial Release;
- (b) All non-violent offenses are eligible except any contact sex offense;
- (c) Applicant must intend to reside in Hamilton County, Ohio;
- (d) Applicant must be serving a non-mandatory term of less than 2 years and serve a minimum of 30 days in ODRC before being eligible for screening;
- (e) Applicant must have been sentenced in Hamilton County, Ohio;
- (f) If the participant is homeless, must agree to living in shelter until other housing is available. Electronic monitoring will be used, if necessary;
- (g) Male and Females will be accepted into the program;
- (h) Participants with mental health and substance use history are eligible.

**(4) Ineligibility**

- (a) Applicant cannot have 3 or more prison commitments;
- (b) Incomplete application;
- (c) Applicant is currently serving time on 3 or more cases;
- (d) Applicant is ineligible if he or she is sentenced outside of Hamilton County, Ohio;
- (e) Applicant cannot have any outside felony warrants, or capiases, other than minor traffic
- (f) Applicant has any pending/open municipal or felony cases in any Court;
- (g) Serving mandatory sentence.

**(5) Re-Entry Docket Case Management**

Upon admission to the Re-Entry Docket, each participant shall be registered for services through the primary case management agency, the Hamilton County Office of Re-Entry. An initial Re-Entry Plan shall be created by both the Re-Entry Docket Team and the participant. Services including, mental health treatment, substance use treatment, primary care, employment, housing and community support services shall be available upon admission to the Re-Entry Docket. In order to successfully complete the Re-Entry Docket, participants will have to demonstrate that they have maintained employment, sobriety, stable housing, compliance with the law and compliance with their terms of community control sanctions. Should a participant subsequently decide not to participate, or unsuccessfully terminated the program, the case shall remain on the regular docket of the Re-Entry Docket Judge.

**(6) Termination of Re-Entry Docket**

The Re-Entry Docket is not a voluntary program. Participants are expected to engage in program for 12-18 months. If unsuccessful, participants can be discharged from the program and original remaining sentence will be imposed. If participants successfully complete the program, this is identified as graduation and they will transition into Alumni status. Data tracking will continue for all Alumni of the program for up to 24 months.

**(D) Drug Treatment and Recovery Court**

See Local Rule 35 for more information on Drug Treatment and Recovery Court.

(Effective 9/23/2013. Revised ??/??/2023. Re-Entry effective 10/1/2022)

**Effective (July 1, 2023)**

## RULE 48. COMMERCIAL DOCKET

### A) Establishment of a Commercial Docket

Effective November 1, 2023, the Hamilton County Court of Common Pleas, General Division, established a commercial docket pursuant to Sup.R. 49 through 49.12.

### B) Judges.

**(1)Judges Designated.** There will be a minimum of 2 judges designated to hear all cases assigned to the commercial docket and will be referred to as the commercial docket judges.

**(2)Terms of Commercial Docket Judges.** The term of the commercial docket judges will be no less than 3 years.

Cases assigned to a commercial docket judge will remain on that judge's docket after expiration of the judge's term.

**(3)Designation of Commercial Docket Judges.** Pursuant to Sup. R. 49.02 (A) (1) (a)(b), Judges meeting the minimum requirements to participate as a commercial docket judge, will be chosen by a majority vote of the judges of the general division of the court

### C) Adjustment of Other Case Assignments

To promote fair and equal distribution of cases, when establishing a commercial docket with sitting judges of the general division, for each commercial docket case assigned to a commercial docket judge, a similar non-commercial docket civil case shall be assigned by lot from the docket of the commercial judge to a non-commercial docket judge of the court.

### D) Reduced Assigned Case Workload of Commercial Docket Judges

The assigned number of cases rolled to each commercial docket judge shall be reduced as follows:

(1) Each commercial docket judge receives no fourth or fifth degree felony cases.

### E) Review of Transfer to Commercial Docket

1) Ruling or decision on transfer

(a) A non-commercial docket judge shall rule on a party's motion for transfer of a case to the commercial docket no later than two days after the filing of the motion. A party to the case may appeal the non-commercial docket judge's decision to the administrative judge within three days of the non-commercial docket judge's decision. The administrative judge shall decide the appeal no later than two days after the filing of the appeal.

(b) An administrative judge shall decide the sua sponte request of a non-commercial docket judge for transfer of a case to the commercial docket no later than two days after the request is made.

(2) Review of transfer

(a) The factors set forth in Sup.R. 49.05 and 49.06 shall be dispositive in determining whether a case shall be transferred to or removed from the commercial docket.

(b) The ruling or decision of the administrative judge as to the transfer of a case is final and not appealable.

**F) Local Rules Apply.**

Unless otherwise ordered in a specific case, or contrary to the within rules and/or Sup R 49-49.12, the general local rules of the Hamilton County Court of Common Pleas apply in all commercial docket cases.